Government of Bombay
Legal Department

The Bombay Code

Volume I

PART III

Containing

The Acts passed by the Bombay Legislative Council from 1922 to 1936 and by the Bombay Legislature from 1937 to 1949; the Regulations made by the Governor of Bombay under sub-section (*2*) of section 92 of the Government of India Act, 1935; and a Chronological Table of Acts with an Index and a General Index.

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THE BOMBAY DISTRICT VACCINATION ACT, 1892.

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BOMBAY ACT No. I OF 1892.[1]

[THE BOMBAY DISTRICT VACCINATION ACT, 1892.]

[*11th August 1892.*]

Repealed in part, by Act 16 of 1895.
Adapted and modified by the Adaptation of Indian Laws Order in Council.
Amended by Bom. 53 of 1949.
,, ,, ,, 8 of 1950.
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 8 of 1954.

An Act to prohibit the practice of inoculation and to make the vaccination of children in certain portions of the Bombay Presidency compulsory.

WHEREAS it is expedient to prohibit the practice of inoculation and to make compulsory the vaccination of children in certain portions of the Presidency of Bombay, and to remove doubts as to the legality of compulsory vaccination in the case of convicts and others confined in criminal jails, reformatories and lunatic asylums in the said presidency; It is enacted as follows :—

Preliminary.

1. This Act may be cited as the Bombay District Vaccination Act, 1892. Short title.

2. (*1*) Section 33 extends to the whole of the Presidency of Bombay, and shall come into force at once. Extent and commencement.

(*2*) The rest of the Act—

(*a*) extends to the whole of the Presidency of Bombay, except—
[2][Greater Bombay], [3]* * * * * *
and

(*b*) shall come into force in each local area within its extent on such day as the [4][[5][State] Government] by notification in the [6][*Official Gazette*] may direct.

(*3*) Every such notification shall specify the local area to which it relates—

(*a*) by name if such area is a territorial sub-division or area with a specific name and defined limits, or

(*b*) by defining its limits in any other case.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1891, Pt. V, p. 80; for Report of Select Committee, *see ibid*, 1892, p. 3 and for Proceedings in Council, *see ibid*, 1892, pp. 18, 29, 40, 61 and 63.

[2] These words were substituted for the words "the City of Bombay" by Bom. 17 of 1945, s. 9, read with Bom. 8 of 1950.

[3] The words "and the town of Karachi" were deleted by the Adaptation of Laws Order, 1950.

[4] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[5] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[6] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

(*4*) Except when an epidemic of small-pox exists or is apprehended, notice of the intention of [1][the [2][State] Government] to introduce the Act as aforesaid on a date specified shall be given in the [3][*Official Gazette*] at least one month before such notification is issued, and [1][the [2][State] Government] shall receive and consider such suggestions and objections as may be submitted to [1][the [2][State] Government] by persons interested, not later than a week before the date specified as aforesaid.

Power to suspend or withdraw Act.

3. The [4][[2][State] Government] may at any time by notification withdraw the Act from operation, or, for such period as [5][it] deems fit, suspend its operation, in any local area in which it may have been brought into force under section 2, sub-section (*2*), or in any part of such area.

Interpretation clause.

4. In this Act, unless there be something repugnant in the subject or context,—

(*a*) "parent" means, in the case of a legitimate child, the father or the mother, and, in the case of an illegitimate child, the mother only:

(*b*) "guardian" means any person to whom the care, nurture or custody of any child falls by law or by natural right or recognised usage, or who has accepted or assumed the care, nurture or custody of any child or to whom the care or custody of any child has been entrusted by any authority lawfully authorized in that behalf:

(*c*) "public vaccinator" means any vaccinator appointed under this Act and includes any deputy duly authorized to act for such public vaccinator:

(*d*) "medical practitioner" means any person duly qualified by a diploma, degree or licence to practise in medicine or surgery or specially licensed by the [4][[2][State] Government] to practise vaccination and grant certificates under the provisions of this Act:

(*e*) "unprotected child" means a child who has not been protected from small-pox by having been successfully vaccinated, or who has not been certified under section 12 to have already had small-pox or to be insusceptible of vaccination:

(*f*) "animal-lymph" means vaccine taken from the calf of a cow or buffalo:

(*g*) "vaccination-area" means a local area in which the [4][[2][State] Government] has by notification declared this Act to be, and the Act is, in force:

(*h*) "vaccination-circle" or "circle" means one of the circles into which a vaccination-area is sub-divided under this Act:

(*i*) "Sanitary Commissioner" means the Sanitary Commissioner for the Presidency of Bombay or any officer whom the [4][[2][State] Government] from time to time directs to exercise or perform all or any of the powers or duties of a Sanitary Commissioner under this Act:

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[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", by the Adaptation of Indian Laws Order in Council.

[4] The words "Provincial Government" were substituted for the words "Governor in Council", *ibid.*

[5] The word "it" was substituted for the word "he", *ibid.*

(*j*) "Registrar of births" means any officer or other person whose duty it is,—

(*a*) under any law for the time being in force other than the [1]Births, Deaths and Marriages Registration Act, 1886, or

VI 1886.

(*b*) under any bye-law or rule having the force of law, to register births:

(*k*) "register" and "registration" refer to registration in pursuance of any such law, bye-law or rule as aforesaid.

Establishment.

Vaccination circles.

5. (*1*) Subject to such rules and orders as may from time to time be made by [2][the Provincial Government], every vaccination area shall, with the concurrence of the Commissioner, be divided by the Sanitary Commissioner into such and so many circles for the performance of vaccination, as he shall from time to time deem fit.

Appointment of public vaccinators and vaccine-stations.

(*2*) The Sanitary Commissioner shall appoint a public vaccinator for each vaccination-circle, and shall, with the concurrence of the Commissioner, appoint such places in each such circle as he shall from time to time deem fit to be stations for the performance of vaccination. Such stations shall be called public vaccine-stations.

Public vaccinators how removable.

(*3*) Every public vaccinator shall be removable from office by the Sanitary Commissioner.

Limits of circles and hours of attendance how to be notified.

(*4*) The limits of the vaccination-circles made, and the positions of the public vaccine-stations fixed, under sub-sections (*1*) and (*2*), and the days and hours of the public vaccinator's attendance at each station, shall be published from time to time in such manner as shall be directed in rules to be framed under section 32.

Public vaccinator to live within his circle.

6. Every public vaccinator, unless specially permitted by the Sanitary Commissioner to reside elsewhere, shall reside within the circle for which he is appointed, and shall cause his name, with the addition of the words "Public Vaccinator for the vaccination-circle of * *," to be posted up in English and in the vernacular of the district in some conspicuous place on or near the outer door of his dwelling-house, and of every public vaccine-station in his circle.

Qualifications of public vaccinator.

7. No person shall be appointed a public vaccinator, or act as a deputy for a public vaccinator, who shall not possess a certificate of qualification signed by the Sanitary Commissioner.

Superintendent of Vaccination.

8. (*1*) In each vaccination-area a Superintendent of Vaccination shall be appointed by [2][the Provincial Government], and, subject to the orders of the Sanitary Commissioner, shall have a general control over all the proceedings of the public vaccinators within that area, and shall perform such duties, in addition to those prescribed by this Act, as shall be required by [2][the Provincial Government].

Assistant Superintendents.

(*2*) Each Superintendent shall have, if necessary, one or more assistants as [2][the Provincial Government] may from time to time direct.

[1] Unrepealed Central Acts.

[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

Vaccination.

Deputy of parent or guardian of children within limits of vaccination area.

9. (*1*) Subject to the provision contained in clause (*a*) of sub-section (*3*), section 14, it shall be the duty of the parent, or, in the case of a child in the care of a guardian, of the guardian of every child such as is mentioned in sub-section (*2*), within the period prescribed in respect thereof in the said sub-section, to take it or cause it to be taken to a public vaccinator to be vaccinated, or to cause it to be vaccinated by a public vaccinator or by some medical practitioner.

Within what period to be performed :

(*2*) The duty imposed by sub-section (*1*) shall be performed in the undermentioned cases within the periods hereinbelow respectively specified, that is to say—

in the case of—

in case of child born within vaccination-area,

(*a*) a child born within the limits of a vaccination area—within twelve months after its birth ;

in case of unprotected child brought within vaccination area.

(*b*) an unprotected child brought to reside, whether temporarily or permanently, within the said limits,—

(*i*) if the child is less than nine months old—within twelve months after its birth ;

(*ii*) if the child is nine months or more than nine months, but less than fourteen years old—within three months of its being brought within the said limits ;

in case of child living within vaccination area when Act comes into force therein.

(*c*) an unprotected child living within the said limits at the date when this Act comes into force therein,—

(*i*) if the child at such date is more than six months, but less than fourteen years old—within six months from the date of the Act coming into force in such area ;

(*ii*) if the child at such date is less than six months old—within twelve months from the date of its birth.

Public vaccinator bound to vaccinate all children brought to him.

(*3*) The public vaccinator to whom any such child, or to whom any child under the age of fourteen years, is brought for vaccination, is hereby required, with all reasonable despatch, subject to the conditions hereinafter mentioned, to vaccinate the child.

Inspection.

10. (*1*) At an appointed hour upon the same day in the following week after vaccination shall have been performed by a public vaccinator or a medical practitioner, or on any earlier or later day, if the public vaccinator or medical practitioner so desires, the parent or guardian shall again take the child, or cause it to be taken, to the public vaccinator, or to the medical practitioner by whom the operation was performed, that he may inspect it and ascertain the result of the operation.

Re-vaccination.

(*2*) In the event of the vaccination being wholly or partly unsuccessful such parent or guardian shall, if the public vaccinator or medical practitioner so direct, cause the child to be forthwith again vaccinated and subsequently inspected as on the previous occasion.

If child be unfit for vaccination, certificate in form A to be given.

11. (*1*) If any public vaccinator or medical practitioner shall be of opinion that any child is not in a fit state to be vaccinated, he shall forthwith deliver to the parent or guardian of such child a certificate under his hand, according to the form of Schedule A, or to the like effect, that the child is then in a state unfit for vaccination.

(*2*) The said certificate shall remain in force for two months only, but shall be renewable for successive periods of two months, until a public vaccinator or medical practitioner shall deem the child to be in a fit state for vaccination, when the child shall, with all reasonable despatch, be vaccinated, and a certificate of successful vaccination given, in the form of Schedule C, according to the provisions of section 13, if warranted by the result. Certificate to remain in force for two months, but shall be renewable.

(*3*) At or before the end of each successive period the parent or guardian shall take or cause the child to be taken to some public vaccinator or medical practitioner, who shall then examine the child and give a fresh certificate according to the said Form A, so long as he deer s requisite under the circumstances of the case. When successive postponement certificates are to be granted.

12. If any public vaccinator or medical practitioner shall find that a child whom he has three times unsuccessfully vaccinated is insusceptible of successful vaccination or tnat a child brought to him for vaccination has already had the small-pox, he shall deliver to the parent or guardian of such child a certificate under his hand according to the forr of Schedule B, or to the like effect, and the parent or guardian shall thenceforth not be required to cause the child to be vaccinated. Provision for giving certificate of insusceptibility to successful vaccination.

13. Every public vaccinator or medical practitioner who shall have performed the operation of vaccination upon any child, and shall have ascertained that the same has been successful, shall deliver to the parent or guardian of such child a certificate, according to the form of Schedule C, or to the like effect, certifying that the said child has been successfully vaccinated. Provision for giving certificate of succesful vaccination.

14. (*1*) Except as is in sub-section (*2*) otherwise provided, the vaccination of a child under the provisions of this Act must, as the parent or guardian of the child may require, be performed with animal-lymph or with lymph taken from a human being. Vaccination must ordinarily be performed with that kind of lymph which the parent or guardian of the child may require.

(*2*) It shall at any time be lawful for the [1][[2][State] Government], on its being shown to [3][its] satisfaction that animal-lymph is not procurable in any vaccination area without dangerous delay, to direct, by notification in the [4][*Official Gazette*],—

(*a*) that, during such period as [3][it] may deem fit to appoint, the vaccination of children within such vaccination-area may without the assent of the parents or guardian of such children, be performed with lymph taken from a human being;

(*b*) that the public vaccinator or medical practitioner to whom, at any time during the said period, a vaccinated child is brought under the provisions of section 10 for inspection, may, if he sees fit, take from such child lymph for the performance of other vaccinations in such manner as shall not be injurious to such child.

(*3*) The operation of any such notification shall be subject to the following provisos, namely :—

(*a*) that if the period prescribed by section 9 for the vaccination of an unprotected child will expire while such notification is in force, the parent or guardian of such child may give written notice to a public vaccinator, before the

[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] The words "its" and "it" were substituted for the words "his" and "he" respectively, by the Adaptation of Indian Laws Order in Council.

[4] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

expiry of the said period, of his desire to arrange privately for the effectual vaccination of the child in conformity with the provisions of this Act, and thereupon the public vaccinator shall for the said purpose allow an extension of the said period for such times, not exceeding one month, as he deems reasonable;

(*b*) that lymph shall not be taken from any child who does not appear to be in good health and free from taint of a disease transmissible by vaccination, or whose parents are known to the public vaccinator or medical practitioner to have suffered or to be suffering from phthisis, leprosy or syphilis.

(*4*) Whenever the [1][[2]State] Government] shall publish such a notification as aforesaid, [3][it] shall also frame and notify such regulation for the administration of the provisions thereby brought into force as shall appeal necessary, in order to prevent the application of the said provisions from being attended with oppression or needless offence. These regulations shall include such rules as to the sources from which lymph is to be obtained, and the means by which it is to be preserved pure, as shall appear necessary, in order to satisfy reasonable scruples on the part of persons to be vaccinated or the parents or guardians of such persons.

No fee to be charged for vaccination at a public vaccine-station or for certificates.

15. (*1*) No fee or remuneration shall be charged by any public vaccinator to the parent or guardian of any child for any such certificate as aforesaid, nor for any vaccination done by him in pursuance of this Act at a public vaccine-station.

Proviso.

(*2*) But it shall be lawful for a public vaccinator to accept, for vaccinating a child, by request of the parent or guardian, elsewhere than at a public vaccine-station, a fee not exceeding such maximum as the [1][[2]State] Government] may, by rule or order in this behalf, prescribe.

Registration.

Registrar of births to give notice of the requirement of vaccinations.

16. On the registration in a vaccination-area of the birth of any child, the Registrar of births shall deliver to the person giving information of such birth a printed notice in the form of Schedule D, or to the like effect, and such notice shall have attached thereto the several forms of certificates prescribed by this Act.

Duplicates of all certificates to be transmitted to Registrar.

17. Every public vaccinator or medical practitioner who gives to any parent or guardian a certificate in any of the forms of Schedules A, B and C shall, if possible, ascertain whether the birth of the child to which the certificate relates has been registered in any place situate within a vaccination-area or in [4][Greater Bombay], [5]* * * * If he ascertains that it has been so registered he shall within twenty-one days of giving the certificate, transmit a duplicate thereof to the Registrar of births of the said place; in every other case he shall, within the said period, transmit a duplicate of the said certificate to the Registrar of births (if any) of the place in which the child was vaccinated or presented for vaccination.

Registrar to keep a vaccination notice and certificate book;

18. Every Registrar of births in a vaccination-area shall keep a book in such form as may from time to time be prescribed under section 30, in which he shall enter minutes of the notices of vaccination given by him as herein required, and shall also register the duplicates of certificates transmitted to him as herein provided.

[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] "The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] The word "it" was substituted for the word "he" by the Adaptation of Indian Laws Order in Council.

[4] These words were substituted for the words "the City of Bombay" by Bom. 17 of 1945, s. 9, read with Bom. 8 of 1950.

[5] The words "or in the town of Karachi" were omitted by the Adaptation of Laws Order, 1950.

Also duplicate register of births, with entries concerning vaccination.

19. He shall also prepare and keep a duplicate of any register of births which it is his duty to keep, with such columns added thereto as shall from time to time be prescribed under section 30, in which he shall record the date of every duplicate certificate, in the form of Schedule B or Schedule C, received by him concerning any child whose birth he has registered, and make an entry to the effect that the child has been vaccinated, or is insusceptible of vaccination, or has already had small-pox, as the case may be.

Also a register of postponed vaccinations.

20. He shall also keep a register of postponed vaccinations in the form of Schedule E, in which he shall record the name of every child concerning whom he receives a duplicate certificate in the form of Schedule A, together with the date of such duplicate certificate, and of each such successive duplicate certificate, if he receives more than one, and shall show the number and year of the entry, if any, in the Register of births in which such child's birth has been registered.

Transmission of returns to Superintendent.

21. Every Registrar of births in a vaccination-area shall transmit, on the first of every month, to the Superintendent of Vaccination a return, in such form as may from time to time be prescribed under section 30, of all cases in which duplicate certificates have not been duly received by him in pursuance of the provisions of this Act during the last preceding month.

Prosecutions and Offences.

22. Whoever—

Penalty for inoculating.

(*a*) produces, or attempts to produce in any person, by inoculation with variolous matter or by wilful exposure to variolous matter or to anything impregnated therewith, or who wilfully by any other means produces the disease of small-pox in any person, or

for entering a vaccination area after inoculation,

(*b*) being above the age of fourteen years and having been inoculated with small-pox in a place in which this Act is not for the time being in force, shall afterwards enter a vaccination-area before the expiration of forty days from the date of such inoculation, or without a certificate from a medical practitioner that such person is no longer likely to cause contagion, or

for bringing person inoculated into such area.

(*c*) having the charge, custody or control of any person so inoculated, shall, within such period or without such certificate as aforesaid, knowingly bring such person into, or permit such person to enter, a vaccination-area,

shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

Magistrates may make an order for the vaccination of any unprotected child under fourteen years.

23. (*1*) If a Superintendent of Vaccination shall give information in writing to [1][a Taluka Magistrate] that he has reason to believe that any child within a vaccination-area, under the age of fourteen years, is an unprotected child, and that he has given notice to the parent or guardian of such child to procure its being vaccinated, and that the said notice has been disregarded, such Magistrate may summon such parent or guardian to appear with the child before him, and, if the Magistrate shall find, after such examination as he shall deem necessary, that the child is an unprotected child, he may make an order directing such child to be vaccinated within a certain time not exceeding two months.

[1] These words were substituted for the words "a Magistrate" by Bom. 8 of 1954, s. 2, Schedule—Part III.

Penalty for disobedience of such order.

(2) If, at the expiration of such time, the child shall not have been vaccinated, or shall not be shown to be then unfit to be vaccinated, or to be insusceptible of vaccination, the person upon whom such order shall have been made shall, unless he can show to the Magistrate some reasonable ground for his omission to carry the order into effect, be punished with fine which may extend to fifty rupees.

Proviso for costs to person improperly summoned.

(3) Provided that, if the Magistrate shall be of opinion that the person is improperly brought before him, and shall refuse to make an order for the vaccination of the child, he may order the informant to pay to such person such sum of money as he shall consider a fair compensation for his expenses and loss of time in attending before the Magistrate.

Penalty for not producing child.

24. If any parent or guardian intentionally omits to produce a child whom he has been summoned to produce under the last preceding section, he shall be punished with simple imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

Penalty for neglect to take child to be vaccinated.

25. Whoever, in contravention of this Act,—

(*a*) neglects, without reasonable excuse, to take or cause a child to be taken to be vaccinated, or after vaccination to be inspected, or

(*b*) at any time, during the period for which any notification made under section 14 is in force, prevents any public vaccinator from taking lymph from any child whom he has vaccinated, or

(*c*) neglects to fill up, sign and give to the parent or guardian of any child any certificate which such parent or guardian is entitled to receive from him, or to transmit a duplicate of the same to the Registrar of births,

shall be punished for each such offence with fine which may extend to fifty rupees.

Penalty for making or signing false certificate.

26. Whoever wilfully signs, or makes or procures the signing or making of, a false certificate or duplicate certificate under this Act shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Penalty for accepting illegal fee or remuneration.

27. If any public vaccinator accepts, or obtains, or agrees to accept, or attempts to obtain, from any person any fee, or remuneration, contrary to the provisions of section 15, he shall be deemed to have committed an offence punishable under section 161 of the Indian Penal Code. XLV of 1860.

Cognizance of offences under the Act.

28. All offences under this Act shall be cognizable by a Magistrate of the first or second class, but no complaint of any such offence shall be entertained unless the prosecution be instituted by order of, or under authority from, a Magistrate of a district or of a sub-division, or of a Superintendent of Vaccination.

Prosecution for neglect.

29. In any prosecution for neglect to procure the vaccination of a child, it shall not be necessary in support thereof to prove that the defendant had received notice from a Registrar of births, or any other officer, of the requirements of the law in this respect; but, if the defendant produce any certificate under section 12 or 13, or the duplicate of the register of births or the register of postponed vaccinations kept by any Registrar of births as hereinbefore provided, in which such certificate shall be duly entered, the same shall be a sufficient defence for him, except in regard to the certificate according to the form of Schedule A, when the time specified therein for the postponement of the vaccination shall have expired before the time when the information shall have been laid.

Supplemental.

Books and forms.

30. The Sanitary Commissioner shall frame and provide appropriate books and forms for the use of the public vaccinators, and also such forms as shall be required for the signature of medical practitioners under the provisions of this Act, and he shall also transmit to the Registrars of births such books and forms as are required by them under the provisions of this Act.

Annual return to be made of the number of children vaccinated, etc.

31. It shall be the duty of every Registrar of births in a vaccination-area to show in any annual general abstract of births prepared by him the number of children successfully vaccinated, the number whose vaccination has been postponed, and the number certified to be insusceptible of successful vaccination during the year.

Sanitary Commissioner to make rules.

32. The Sanitary Commissioner may, with the sanction of the [1][Provincial Government] from time to time make rules[2] or issue orders consistent with this Act—

(*a*) providing for the appointment of deputies of public vaccinators when necessary;

(*b*) determining the qualifications to be required of public vaccinators or their deputies, and regulating the grant of certificates of qualification under section 7;

(*c*) for the guidance of public vaccinators and others in all other matters connected with the working of this Act.

All such rules or orders shall be published in the [3][*Official Gazette*].

Vaccination of convicts and others in jails, etc.

33. (*1*) Subject to such rules as the Inspector-General of Prisons with the sanction of [4][the Provincial Government] may make in this behalf, and to such exemptions as [4][the Provincial Government] may from time to time, by either a general or a special order authorize, the operation of vaccination shall be performed on every person confined in any of the cases hereinafter mentioned, whatever the age or sex of such person may be, and whether such person consent to undergo such operation or not; that is to say, in the case of every person in respect of whom—

(*a*) imprisonment for more than one month or transportation has been awarded as part of the substantive sentence of a criminal court, or

(*b*) a criminal court has directed imprisonment, in default of payment of fine for a term which, if the fine be not sooner paid, will exceed one month, or

(*c*) a Court has directed imprisonment for failure to give security for good behaviour for a term which, if security be not sooner given, will exceed one month, or

(*d*) an order has been passed by [4][the Provincial Government] under either section 466 or section 471 of the [5]Criminal Procedure Code, 1882, for his confinement as a lunatic.

X of 1882.

(*2*) [*Rep. Act XVI of 1895.*]

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] For rules made under clause (*c*), *see* Bombay Local Rules and Orders.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[4] The words "the Provincial Government" were substituted for the word "Government", *ibid.*

[5] *See* now the Code of Criminal Procedure, 1898 (V of 1898).

SCHEDULE A.

(*See section 11.*)

I, the undersigned, hereby certify that, in my opinion, * * *, the child of * * * *, resident at * *, in the vaccination-area of * *, is not now in a fit and proper state to be vaccinated, and I do hereby postpone the vaccination for the period of two months from this date.

Dated this * * day of * * 18 * *.

(*Signature of Medical Practitioner or Public Vaccinator.*)

SCHEDULE B.

(*See section 12.*)

(FORM OF CERTIFICATE WHERE CHILD IS INSUSCEPTIBLE OF SMALL-POX.)

I, the undersigned, hereby certify that I have three times unsuccessfully vaccinated * *, the child of * *, residing at * *, in the vaccination-area of * *, and I am of opinion that the said child is insusceptible of successful vaccination.

Dated this * * day of * * 18 * *.

(*Signature of Medical Practitioner or Public Vaccinator.*)

(FORM OF CERTIFICATE WHERE CHILD HAS ALREADY HAD SMALL-POX.)

I, the undersigned, hereby certify that I have examined * *, the child of * *, residing at * *, in the vaccination-area of * *, and that I am of opinion that the said child has already had small-pox.

Dated this * * day of * * 18 * *.

(*Signature of Medical Practitioner or Public Vaccinator.*)

SCHEDULE C.

(*See section 13.*)

I, the undersigned, hereby certify that * *, the child of * *, age * *, resident at * *, in the vaccination-area of * *, has been successfully vaccinated by me.

Dated this * * day of * * 18 * *.

(*Signature of Medical Practitioner or Public Vaccinator.*)

SCHEDULE D.

(See section 16.)

To

[Here insert the name of the parent, guardian or other person who gives information of the child's birth.]

Take notice that the child of * * * * * * * whose birth has this day been registered, must be vaccinated under the provisions of the Bombay District Vaccination Act, [1][1892], within twelve months from the date of its birth, under a penalty of fifty rupees.

The public vaccine-station nearest to the house in which the child was born is at * *.

The days and hours for vaccination at that station are as follows :—

(Here insert the days and hours when the public vaccinator is in attendance.)

On your taking, or causing the child to be taken, to the public vaccinator at the said station within the said hours on any of the said days, or at any other public vaccine-station in the vaccination area on the days and within the hours prescribed for public vaccination at such station, it will be vaccinated free of charge.

You should be careful to have one of the annexed forms of certificates filled in by the public vaccinator, or, if you employ a private medical practitioner to vaccinate the child, by such medical practitioner, and to keep the same in your possession. Any such certificate will be granted to you by a public vaccinator free of charge.

Dated the * * of * * 18 * *.

Registrar of Births.

SCHEDULE E.

(See section 29.)

REGISTER OF POSTPONED VACCINATIONS FOR THE VACCINATION AREA OF

Consecutive number.	Name of child.	Birth.		Date of certificate of postponement.	Signature of registrar.
		Year.	Number of entry in register.		

[1] These figures were substituted for the figures "1891" by Bom. 53 of 1949, s. 3, Second Schedule.

THE PEINT LAWS ACT, 1894.

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1. Title and commencement.
2. Amendment of Act XIV of 1874 as to territory of Peint.
3. Application of laws of Nasik to territory of Peint.
4. Repeal of other laws.
5. Pending proceedings.

BOMBAY ACT No. II OF 1894.[1]

[THE PEINT LAWS ACT, 1894.]

[*20th December 1894.*]

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act to amend the law in force in the Peint Territory in the Bombay Presidency.

WHEREAS it is expedient that the law in force in the territory of Peint to which the Secretary of State for India, by a Resolution in Council bearing date the 14th day of July, 1885, declared the provisions of the [2]Statute 33 Victoria, chapter 3, section I, to be applicable, should be the same as the law in force in the district of Nasik, and that the said territory should cease to be a Scheduled District under the [3]Scheduled Districts Act, 1874 ; XIV of 1874.

And whereas the previous sanction of His Excellency the Governor General required by section 5 of the [2]Indian Councils Act, 1892, has been obtained for the passing of this Act ;

It is hereby enacted as follows :—

Title and commencement.

1. This Act be called the Peint Laws Act, 1894, and it shall come into force on the first day of January, 1895.

Amendment of Act XIV of 1874 as to territory of Peint.

2. Notwithstanding anything in the definition of "Scheduled Districts" in section 1 of the [3]Scheduled Districts Act, 1874, the territory of Peint shall not be deemed to be a Scheduled District within the meaning of that Act. XIV of 1874.

Application of laws of Nasik to territory of Peint.

3. All enactments which are in force in the district of Nasik and not in the territory of Peint shall come into force in the said territory.

Repeal of other laws.

4. All enactments which are in force in the said territory of Peint and not in the district of Nasik shall be repealed in the said territory.

Pending proceedings.

5. All proceedings commenced before any authority in the said territory before the day on which this Act comes into force and still pending on that day shall be disposed of by such authority as the [4][Provincial Government] may direct, and save as aforesaid shall be carried on as if this Act had not been passed.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1894, Pt. V, p. 2; for Report of Select Committee, *see ibid.*, p. 3; and for Proceedings in Council, *see ibid.*, pp. 17, 19 and 81.

[2] *See* now the Government of India Act, 1935.

[3] The Scheduled Districts Act, 1874, ceases to have effect under the Adaptation of Indian Laws Order in Council.

[4] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

BOMBAY ACT No. III OF 1897.[1]

[*11th January 1898.*]

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act to amend [2]Act VIII of 1870 (*an Act for the prevention of the murder of Female Infants*) **as to the Presidency of Bombay.**

WHEREAS it is expedient to amend as to the Presidency of Bombay, in manner hereinafter appearing, [2]Act VIII of 1870 of the Governor General of India in Council; And whereas the previous sanction of the Governor General required by section 5 of the [3]Indian Councils Act, 1892, has been obtained for the passing of this Act; It is hereby enacted as follows:

1. [*Application of accumulated Funds collected under Act VIII of 1870.*] *Ceased to have effect under the Adaptation of Indian Laws Order in Council.*

2. Notwithstanding anything contained in section 7 of [2]Act VIII of 1870, the said Act shall be deemed to extend, and from the 21st December 1870 to have extended, to the Presidency of Bombay. Commencement of Act VIII of 1870 in Bombay Presidency.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1896, p. 48; for Report of Select Committee, *see ibid.*, 1897, p. 159, and for Proceedings in Council, *see ibid.*, 1897, pp. 111, 191 and 249.

Short title.—"The Female Infanticide Prevention (Amendment) Act, 1897", *see* the Bombay Short Titles Act, 1921 (Bom. 2 of 1921).

[2] Unrepealed Central Acts.

[3] *See* now the Government of India Act, 1935.

BOMBAY ACT No. I OF 1898.[1]

[CITY OF BOMBAY MUNICIPAL INVESTMENTS ACT, 1898.]

[*3rd June, 1898.*]

An Act to supplement the provisions of the City of Bombay Municipal Act, 1888, with respect to the Investment of Sinking Funds and Surplus Moneys, and to validate certain Debentures.

WHEREAS it is expedient to supplement the provisions of the [2]City of Bombay Municipal Act, 1888, with respect to the investment in public securities of sinking funds and surplus moneys of the Municipal Corporation of the City of Bombay; and whereas it is also expedient to remove doubts which have arisen with respect to the validity of certain debentures of the Corporation in which portions of their sinking funds and surplus moneys purport to have been heretofore invested, and to obviate the extinction of such debentures of the Corporation as have been, or may hereafter be, issued in or transferred to the name of the Corporation or to the name of the Municipal Commissioner for the City of Bombay on behalf of the Corporation in respect of any such investments;

Bom. III of 1888.

It is hereby enacted as follows:—

1. This Act may be cited as the City of Bombay Municipal Investments Act, 1898.

2. [*Repealed by Bom. 13 of 1933, section 42 and Appendix.*]

3. [*Repealed by Bom. 13 of 1933, section 42 and Appendix.*]

4. All the several debentures of the Corporation heretofore issued, transferred, assigned or endorsed in the name of the Corporation or in the name of the Municipal Commissioner on behalf of the Corporation as specified in Schedule A, and all debentures heretofore issued by way of renewal, consolidation or sub-division of any of the said debentures shall be deemed to be and to have always been valid and negotiable in all respects and in the same manner as if the same had been issued against moneys borrowed from the Secretary of State or any other person.

5. The signature of the person for the time being holding the office of the Municipal Commissioner for the City of Bombay to a transfer of any debenture standing in the name of the Corporation or of the Municipal Commissioner on behalf of the Corporation shall be valid and sufficient, notwithstanding that such person may not have held the said office at the time when such debenture was issued, transferred, assigned or endorsed to the name of the Corporation or the Municipal Commissioner as aforesaid.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1898, Pt. V, p. 73; and for Proceedings in Council, *see ibid.*, p. 205.

[2] *Supra.*

SCHEDULE A.

Particulars of Loans and Numbers of Debentures.			Number.	Amount.	Total.	Grand Total.
5 *per cent. Bombay Municipal Loan* (*Rs.* 10,08,500) *for Drainage dnd Water Works, Markets and Roads.*				Rs.	Rs.	Rs.
Nos.	445 to 729	... ...	285	500	1,42,500	
,,	730 to 741	... ...	12	500	6,000	
						1,48,500
5 *per cent. Agripada House Sullage Water Connections Loan* (*Rs.* 2,48,000).						
Nos.	1 to 170	... ...	170	500	85,000	
,,	171 to 182	... ...	12	500	6,000	
,,	183 to 188	.. ..	6	500	3,000	
,,	485 to 492	.. ...	8	500	4,000	
,,	493 to 496	... ...	4	500	2,000	
						1,00,000
The (5 *per cent.*) 35 *Lakhs various Sanitary Works Loan.*						
Nos.	6801 to 6825	... ...	25	500	12,500	
,,	6826 to 6876	... ...	51	500	25,500	
,,	6877 to 6888	... ...	12	500	6,000	
,,	6889 to 6894	... ...	6	500	3,000	
,,	6895 to 6902	... ...	8	500	4,000	
,,	6903 to 6967	... ...	65	500	32,500	
,,	6988 to 6992	... ...	25	500	12,500	
,,	6993 to 7000	.. ...	8	500	4,000	
						1,00,000
5 *per cent. Tansa Water Works Loan* (*Rs.* 147 *lakhs*).						
Nos.	24401—24450 to 25351—25400	...	20	25,000	5,00,000	
,,	25401—25440 to 26201—26240	...	21	20,000	4,20,000	
,,	26241—26270 to 27261—27290	...	35	15,000	5,25,000	
,,	27291—27310 to 28271—28290	...	50	10,000	5,00,000	
,,	28291—28300 to 28481—28490	...	20	5,000	1,00,000	
,,	28491—28494 to 28887—28890	...	100	2,000	2,00,000	
,,	28891—28892 to 29229—29230	...	170	1,000	1,70,000	
,,	29231—29270 to 29351—29390	...	4	20,000	80,000	
,,	29391—29392 and 29393—29394	...	2	1,000	2,000	
,,	29395—29396 to 29399—29400	...	3	1,000	3,000	
						25,00,000
The (5 *per cent.*) *Municipal Building Loan* (*Rs.* 8,00,000).						
Nos.	1—50 to 151—200	... ...	4	25,000	1,00,000	
,,	201—240 to 361—400	... ...	5	20,000	1,00,000	
,,	401—430 to 551—580	... ...	6	15,000	90,000	
,,	581—600 to 961—980	... ...	20	10,000	2,00,000	
,,	981—990 to 1171—1180	... ...	20	5,000	1,00,000	
,,	1181—1184 to 1377—1380	... ...	50	2,000	1,00,000	
,,	1381—1382 to 1599—1600	... ...	110	1,000	1,10,000	
						8,00,000
	Total 5 per cent. Loan Debentures	...	.....	.....	.....	36,48,500

SCHEDULE A—*contd.*

Particulars of Loans and Numbers of Debentures.				Number.	Amount.	Total.	Grand Total.
					Rs.	Rs.	Rs.
The (4 per cent.) Loan of 4½ Lakhs for Fire Brigade Quarters and Stations.							
Nos.	1—20 to 181—200	...	...	10	10,000	1,00,000	
,,	201—210 to 291—300	...	...	10	5,000	50,000	
,,	301—304 to 417—420	...	...	30	2,000	60,000	
,,	421—422 to 479—480	...	...	30	1,000	30,000	
,,	481 to 500	...	...	20	500	10,000	
	Total 4 per cent. Loan Debentures		...	.....	.....	.....	2,50,000
	GRAND TOTAL		...	.....	.....	.....	38,98,500

THE BOMBAY DISTRICT MUNICIPAL ACT, 1901.

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BOMBAY ACT No. III OF 1901.[1]

[THE BOMBAY DISTRICT MUNICIPAL ACT, 1901.]

[*1st April 1901*]

Repealed in part by Bom. 1 of 1910 ;

,, ,, ,, ,, ,, 11 of 1923 ;

,, ,, ,, ,, ,, 5 of 1925 ;

,, ,, ,, ,, ,, 15 of 1932 ;

,, ,, ,, ,, ,, 17 of 1933 ;

,, ,, ,, ,, ,, 53 of 1949.

Repealed in part and amended by Bom. 3 of 1903 ;

,, ,, ,, ,, ,, ,, ,, 4 of 1904.

Amended by Act 38 of 1920 ;

,, ,, Bom. 3 of 1902 ;

,, ,, ,, 10 of 1912 ;

,, ,, ,, 8 of 1914 ;

,, ,, ,, 3 of 1915 ;

,, ,, ,, 6 of 1917 ;

,, ,, ,, 6 of 1918 ;

,, ,, ,, 2 of 1919 ;

,, ,, ,, 3 of 1920 ;

,, ,, ,, 4 of 1924 ;

,, ,, ,, 15 of 1925 ;

,, ,, ,, 20 of 1929 ;

,, ,, ,, 4 of 1930 ;

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1899, Pt. V, p. 133 ; for Report of Select Committee, *see ibid*, 1900, p. 1 ; and for Proceedings in Council *see ibid*, 1899, p. 216 ; *ibid*, 1900, p. 33 ; *ibid*, 1091, pp. 123, 134, 155 and 174.

Sections 76, 77, 79, 80 and Schedule D have been extended to the cantonment of Ahmednagar subject to certain restrictions, and modifications, *see Gazette of India*, 1905, Pt. I., p. 19.

Amended by Bom. 25 and 26 of 1930 ;

,, ,, ,, 12 of 1931 ;

,, ,, ,, 23 of 1931 ;

,, ,, ,, 14 of 1934 ;

,, ,, ,, 9 of 1935 ;

,, ,, ,, 34 of 1935 ;

,, ,, ,, 11 of 1936 ;

,, ,, ,, 14 of 1936 ;

,, ,, ,, 15 of 1936 ;

,, ,, ,, 24 of 1936.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

Amended by Bom. 9 of 1938 ;

,, ,, ,, 8 of 1939 ;

,, ,, ,, 17 of 1945 ;*

,, ,, ,, 22 of 1945 ;†

,, ,, ,, 7 of 1946 ;†

,, ,, ,, 1 of 1947 ;

,, ,, ,, 2 of 1947 ;

,, ,, ,, 52 of 1949 ;

,, ,, ,, 8 of 1950 ;

,, ,, ,, 17 of 1950.‡

Adapted and modified by the Adaptation of Laws Order, 1950.

Amended by Bom. 28 of 1950 ;

,, ,, ,, 40 of 1950 ;

,, ,, ,, 44 of 1951 ;

,, ,, ,, 19 of 1953 ;

,, ,, ,, 26 of 1953 ;

,, ,, ,, 8 of 1954.

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*This Act was repealed and re-enacted with modifications and the amendments made by section 9 and Sch. E of the said Act have been continued in force by Bom. 52 of 1947, s. 2.

†This Act was repealed and sections 2 and 3 thereof were re-enacted by Bom. 1 of 1947.

‡Section 8 of the Bombay Local Authorities Adult Franchise and Removal of Reservation of Seats Act, 1950 (Bom. 17 of 1950) reads as follows :—

Saving. "8. Nothing in this Act shall affect the right of any Councillor or member elected to fill the seats reserved for Muslims or Muhammadans, Anglo-Indians or Indian Christians to continue as a Councillor or member of a municipality, local board or village panchayat, as the case may be, during the term of the office for which he was validly elected before this Act came into force."

Amended by Bom. 20 of 1954 ;
" " " 21 of 1954 ;
" " " 35 of 1954 ;
" " " 53 of 1954 ;
" " " 2 of 1955 ;
" " " 29 of 1955 ;
" " " 35 of 1955.*

An Act for the better management of municipal affairs in mofussil towns and cities.

WHEREAS it is expedient to consolidate and amend the law relating to the management of municipal affairs in cities and towns in the Bombay Presidency other than [1][Greater Bombay] ; It is enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title. 1. (*1*) This Act may be cited as the Bombay District Municipal Act, 1901.

Local extent. (*2*) It extends to the whole of the Presidency of Bombay, except [1][Greater Bombay].

Commencement. (*3*) It shall come into force on the first day of April 1901.

Repeal. Bom. VI of 1873. Bom. II of 1884. 2. (*1*) The Bombay District Municipal Acts of 1873 and 1884 are hereby repealed :

Provided that—

Saving clause. (*a*) the said repeal shall not affect the validity or invalidity of anything already done under either of the said enactments ;

(*b*) all municipalities constituted, municipal commissioners appointed or elected, committees established, limits defined, appointments, rules, orders and by-laws made, notifications and notices issued, taxes and rates imposed, contracts entered into, and suits and other proceedings instituted, under the said Acts or under any enactments thereby repealed, shall, so far as may be, be deemed to have been respectively constituted, appointed, elected, established, defined, made, issued, imposed, entered into and instituted under this Act ;

(*c*) any enactment of the Governor of Bombay in Council, or document referring to any such repealed, enactment, shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof ;

Bom. II of 1899. (*2*) Of the [2]Bombay Prevention of Adulteration Act, 1899, in section 5, the whole of sub-section (*2*), and clause (*b*) of sub-section (*3*), and in section 6, the whole of sub-section (*2*) are hereby repealed.

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[1] These words were substituted for the words "the city of Bombay" by Bom. 17 of 1945, s. 9 sch. F, read with Bom. 8 of 1950, s. 5.

[2] On the coming into operation of the provisions of Bom. 5 of 1925, in any local area in respect of any article of food, so much of the Bombay Prevention of Adulteration Act, 1899 (Bom. 2 of 1899), as has not already been repealed, except section 6, shall be deemed to have been repealed, *see* Bom. 5 of 1925, s. 20.

*Section 13 of Bom. 35 of 1955, reads as follows :—

"13. The amendments made in the District Municipal Act by sections 2 to 4 (both inclusive) and by section 8 of this Act shall have effect for the purposes of elections of members for any ward of the municipal district to be held under the District Municipal Act after the thirty-first day of December 1955 and for all subsequent elections. For he purposes of any election to be held during the period from the date of the coming in o force of this Act to the thirty-first day of December 1955 (both inclusive) the list of voters in force on the date of the coming into force of this Act shall continue to operate. Amendments made by sections 2 to 4 and 8 to apply to elections held after 31st December 1955.

Definitions.

3. In this Act and in the schedules, unless there be something repugnant in the subject or context,—

(*1*) "City Municipality" shall mean any municipality which

(*a*) [1]* * * * * *

(*b*) has been declared under sub-section (*1*) of section 181 a City Municipality, and which has not ceased under sub-section (*2*) of section 181, to be a City Municipality ;

(*2*) "Councillor" shall mean any person legally a member of a municipality constituted under this Act ;

[2][(*3*) "Director of Local Authorities" shall mean the officer appointed for the time being by the State Government to be the Director of Local Authorities ;]

[3][(*3A*) "Municipal Commissioner" shall mean a person appointed under the provisions of section 186A, and shall include a person appointed to act as Municipal Commissioner under sub-section (*3*) of section 186D ;]

(*4*) "Judge" shall mean District Judge, Joint Judge, Assistant Judge, Judge of a Court of Small Causes, Subordinate Judge, Joint Subordinate Judge or a Judge appointed under the Dekkhan Agriculturists Relief [4][Acts] 1879 to 1895 ;

(*5*) "Municipal district" shall mean any local area which is at present a municipal district, and any local area which may hereafter be constituted a municipal district under section 4, if such municipal district has not ceased to exist under the provisions of the said section ;

(*6*) "Land" shall include land which is built upon or covered with water ;

(*7*) "Building" shall include any hut, shed or other enclosure, whether used as a human dwelling or otherwise and shall include also walls [5][including compound wall and fencing], verandahs, fixed platforms, plinths, door-steps and the like ;

(*8*) "Owner" shall include the person for the time being receiving the rent of lands and buildings or either of them, whether or on his own account or as agent or trustee for any other person or for any society, or for any religious or charitable purposes, or who would so receive the rent if such land or building were let to a tenant ; Provided that no person receiving the rent of any land or building as agent or trustee for another person, shall be liable to do anything by this Act required to be done by the owner of such land or building which may involve expenditure on the part of such owner, unless he have funds of, or due to, the owner sufficient

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[1] Clause (*a*) was deleted by Bom. 21 of 1954, s. 2, First Schedule.
[2] Clause (*3*) was inserted by Bom. 26 of 1953, s. 2.
[3] This clause was inserted by s. 2 of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).
[4] The word "Acts" was substituted for the word "Act" by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. 3 of 1902).
[5] These words were inserted by Bom. 52 of 1949, s. 2.

to pay for the same ; nor shall he be subject to any penalty for omitting to do such act, if he can prove that the default was occasioned by reason of his not having funds of, or due to, the owner sufficient to defray the expense of doing the act required ;

(*9*) " Salaried [1][servant of the [2][Government]] " shall not include a retired [1][servant of the [2][Government]] in receipt of a pension, or a person in receipt of a salary [3][from the [2][Government]] who is not a full-time [1][servant of the [2][Government]] ;

(*10*) " Official year " shall mean the year commencing on the first day of April ;

(*11*) " Annual letting value " shall mean the annual rent for which any building or land, exclusive of furniture or machinery contained or situated therein or thereon, might reasonably be expected to let from year to year ;

(*12*) " Street " shall mean any road, footway, square, court, alley or passage accessible whether permanently or temporarily to the public, whether a thoroughfare or not ;

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[1] The words "servant of the Crown" were substituted for the words "servant of Government" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.

[3] The words "from the Crown" were substituted for the words "from Government" by the Adaptation of Indian Laws Order in Council.

and shall include every vacant space, notwithstanding that it may be private property, and partly or wholly obstructed by any gate, post, chain or other barrier, if houses, shops or other buildings abut thereon, and if it is used by any person as a means of access to or from any public place or thoroughfare, whether such persons be occupiers of such buildings or not, but shall not include any part of such space which the occupier of any such building has a right at all hours to prevent all other persons from using as aforesaid;

(*13*) "Public street" shall mean any street—

(*a*) over which the public have a right of way, or

(*b*) heretofore levelled, paved, metalled, channelled, sewered or repaired, out of municipal or other public funds, or

(*c*) which under the provisions of section 90 is declared by the municipality to be, or under any other provisions of this Act becomes a public street;

(*14*) "Tax" shall include any toll, rate, cess, fee or other impost leviable under this Act;

(*15*) "Nuisance" shall include any act, omission, place or thing which causes or is likely to cause injury, danger, annoyance or offence to the sense of sight, smelling or hearing, or which is or may be dangerous to life or injurious to health or property;

(*16*) "Dangerous disease" shall mean cholera, plague, small-pox, and any endemic, epidemic or infectious disease by which the life of man is endangered;

(*17*) "Vehicle" shall include bicycles, tricycles and automotor cars, and every wheeled conveyance which is used or capable of being used on a public street;

(*18*) "Public securities" shall mean—

(*a*) securities of the [1][Central Government],

(*b*) stocks, debentures or shares in railway or other companies, the interest whereon has been guaranteed by the Secretary of State for India in Council [2][or the Central or any [3][State] Government],

(*c*) debentures or other securities for money issued by or on behalf of any local authority in exercise of powers conferred by [4][a Central Act or an Act of a legislature established in a Part A State or a Part C State], or

(*d*) a security expressly authorized by any order which the [5][[3][State] Government] makes in this behalf;

[6]* * * * * * * *

CHAPTER II.

CONSTITUTION OF MUNICIPALITIES.

(*1*) *Municipal Districts.*

4. (*1*) Subject to the provisions of sections 6, 7 and 8, the [5][[3][State] Government] may, from time to time, by notification in the [7][*Official Gazette*] declare any local area to be a municipal district, and may from time to time, by a like notification, extend, contract or otherwise alter the limits of any municipal

Declaration of municipal districts.

[1] The words "Central Government" were substituted for the words "Government of India" by the Adaptation of Indian Laws Order in Council.

[2] The words "or the Central or any Provincial Government" were inserted, *ibid.*

[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[4] This portion was substituted for the portion "An Act of a legislature established in British India", *ibid.*

[5] The words "Provincial Government" were substituted for the words "Governor in Council", by the Adaptation of Indian Laws Order in Council.

[6] Clause (*19*) was omitted by the Adaptation of Law Order, 1950.

[7] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

district, or declare that any local area shall, from a date to be specified in the notification, cease to be a municipal district.

Limits to be specified in notification.

(*2*) Every such notification constituting a new municipal district, or altering the limits of an existing municipal district, shall clearly set forth the local limits of the area to be included in or excluded from such municipal district, as the case may be.

Erection and maintenance of boundary-marks.

(*3*) It shall be the duty of the Municipality in every municipal district already existing, and of every Municipality newly constituted under this Act, and of every Municipality whose local limits are altered as aforesaid, to cause, at their own cost, to be erected or set up, if and when so required by the Collector, and thereafter to maintain, at their own cost, substantial boundary marks of such description and in such positions as shall be approved by the Collector, defining the limits or the altered limits of the municipal district subject to its authority, as set forth in the notification.

Property and rights of Municipality which has ceased to exist to vest in [1][Government.]

(4) When any local area ceases to be a Municipal district, the Municipality constituted therein shall cease to exist, and the property and rights vested in any such Municipality shall, subject to all charges and liabilities affecting the same, vest in [1][Government], and the proceeds thereof, if any, shall be expended under the orders of the [2][[3][State] Government] for the benefit of the local areas in which such Municipality had jurisdiction.

[4][**4A.** *Transitional provision when municipal district is converted into village.*] *Deleted by Bom. 20 of 1954, s. 2.*

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[1] This word was substituted for the words " His Majesty " by the Adaptation of Laws Order, 1950.

[2] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

[3] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[4] Section 4A was inserted by Bom. 19 of 1953, s. 2.

Municipal districts to be periodical or permanent.

5. Municipal distircts constituted under section 4 may be either periodical or permanent.

What local areas may be declared to be periodical municipal districts.

6. Any local area in which a periodical fair is held or which is visited periodically by pilgrims, together with any neighbouring local area to which the people attending such fair or the pilgrims resort whilst such fair or pilgrimage lasts, may be declared a periodical municipal district at and throughout certain specified recurring seasons.

What local areas may be declared to be permanent municipal districts.

7. (*1*) Any local area which comprises—

(*a*) a city, town or station, or two or more neighbouring cities, towns and stations with or without any village, suburb, or land adjoining thereto, or

(*b*) a village or suburb or two or more neighbouring villages and suburbs, may be declared a permanent municipal district:

Provided that, except—

(*a*) in the case of hill-stations, or

(*b*) for exceptional reasons, which shall be clearly set forth in the proclamation under section 8 and in the notification issued under section 4,

it shall not be lawful—

(*i*) to include any city, town, station or suburb n a permanent municipal district with any other city, town, station or suburb from which it is spearated by an extent of more than one mile of land unoccupied by houses; or

(*ii*) to constitute any municipal district in any area of which the population is less than two thousand.

Naming of municipal districts comprising two or more places.

(*2*) When two or more places bearing different names are formed into one municipal district, the name of the municipal district shall be determined by the Commissioner.

Permanent municipal districts.

8. (*1*) Not less than two months before the publication of any notification declaring any local area a permanent municipal district, or altering the limits of any such district or declaring that any local area shall cease to be a municipal district, the [1][[2][State] Government], shall cause to be published in the [3][*Official Gazette*], in English, and in at least one of the local newspapers, if any, in the language

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

of the district in which such local area is situated, and to be posted up in conspicuous spots in the said local area in the language of the said district, a [1]proclamation announcing that it is proposed to constitute such local area a municipal district, or to alter the limits of the municipal district in a certain manner, or to declare that such local area shall cease to be a municipal district, as the case may be, and requiring all persons who entertain any objection to the said proposal to submit the same, with the reasons therefor, in writing to the Collector within two months from the date of the said proclamation, and whenever it is proposed to add to or exclude from a municipal district any inhabited area, it shall be the duty of the Municipality also to cause a copy of such proclamation to be posted up in conspicuous places in such area.

(*2*) The Collector shall, with all reasonable despatch, forward every objection so submitted to [2][the [3][State] Government].

(*3*) No such notification as aforesaid shall be issued by the [4][[3][State] Government] unless the objections, if any, so submitted are, in [5][its] opinion insufficient or invalid.

(*2*) *Municipalities.*

Constitution and incorporation of Municipalities.

9. In every municipal district shall be there a Municipality, and every such Municipality shall be a body corporate by the name of "The Municipality of—" and shall have perpetual succession and a common seal, and may sue and be sued in their corporate name.

Municipalities to consist of elected and nominated councillors.

10. (*1*) Except as is hereinafter otherwise provided, every such Municipality shall consist of—

(*a*) elected councillors;

[6]* * * * *

Failure to elect.

(*2*) Any vacancies due to failure to elect the full number of elected councillors which under this section might be elected, may, notwithstanding anything in this Act contained, be filled up by nomination by the Commissioner.

The [3][State Government may determine number of councillors and make rules for regulating elections.

[7][**11.** (*1*) The [4][[3][State] Government] shall from time to time, generally or specially for each Municipality,—

(*a*) determine the number of councillors;

[8]* * * * * *

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[1] For instance of such a proclamation, *see Bombay Government Gazette*, 1908, Pt. I-A, p. 21

[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[4] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[5] The word "its" was substituted for the word "his" *ibid.*

[6] Clause (*b*) and proviso to section 10 (*1*) were deleted by Bom. 9 of 1938, s. 2.

[7] Section 11 was renumbered as section 11, sub-section (*1*), by Sch. 1 of the Bombay Decentralization Act, 1915 (Bom. 3 of 1915).

[8] Clause (*b*) was deleted by Bom. 9 of 1938. s. 3.

(*c*) make rules consistent with this Act, for

(*i*) fixing the dates and the time and manner of holding elections, general or casual, of councillors to be elected ;

(*ii*) prescribing the number [1][and the extent of the wards to be constituted in each municipal district, the number of councillors to be elected by each ward and the number of seats, if any, to be reserved for the representation of women, [2][Schedule Castes and Scheduled Tribes]; and the qualifications of candidates [3]* * * other than as hereinafter provided ;

[4]* * * * * *

[5][(*va*) prescribing the manner in which an order of requisition shall be served under sub-section (*2*) of section 160-AA ;

(*vb*) prescribing the time within which an application for determining the amount of compensation by an arbitrator shall be made under section 160-B ;]

(*vi*) regulating generally such elections.

[6][(*d*) Notwithstanding anything contained in clause (*c*), the reservation of seats for women, the Scheduled Castes and the Scheduled Tribes made by rules under the said clause shall cease to have effect on the expiration of the period of ten years from the commencement of the Constitution of India :

Provided that nothing in this clause shall render any person elected to any of such reserved seats ineligible to continue as a councillor during the term of the office for which he or she was validly elected, by reason only of the fact that the reservation of seats has so ceased to have effect ;]

[7][*Explanations.*—For the purposes of this sub-section,—

(1) 'Scheduled Castes' means such castes, races or tribes or parts of or groups within such castes, races or tribes as are deemed to be Scheduled Castes in relation to the State of Bombay under article 341 of the Constitution of India and until the notification in relation to the State of Bombay is issued under that article, means Scheduled Castes as defined in the Government of India (Scheduled Castes) Order, 1936 ;

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[1] This portion was substituted for the original by Bom. 41 of 1947, s. 3(*1*).

[2] These words were substituted for the words "Muslims, Harijans, Backward Tribes, Indian Christians and Anglo-Indians" by Bom. 17 of 1950, s. 2(*1*) (*a*).

[3] The words "and of voters" were deleted by Bom. 35 of 1955, s. 2(*1*) (*a*).

[4] Sub-clauses (*iii*), (*iv*) and (*v*) were deleted, *ibid.*, s. 2(*1*) (*b*).

[5] Clauses (*va*) and (*vb*) were inserted by Bom. 35 of 1954, s. 2.

[6] Clause (*d*) was inserted by Bom. 17 of 1950, s. 2(*1*) (*b*).

[7] These Explanations were substituted for the original by Bom. 17 of 1950, s. 2(*1*) (*c*).

(2) 'Scheduled Tribes' means such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed to be Scheduled Tribes in relation to the State of Bombay under article 342 of the Constitution of India.]

[1][(2) The [2][[3][State] Government] may from time to time delegate to the Commissioner any or all of the powers granted to the [2][[3][State] Government] by clause (*c*), sub-clauses (*i*) [4]* * * and (*vi*) of [5][sub-section (*1*)] subject to such restrictions or conditions if any, as the [2][[3][State] Government] may attach to the delegation.]

List of voters.

[6][12. (*1*) The electoral roll of the Bombay Legislative Assembly for the time being in force for such part of the constituency of the Assembly as is included in a ward of a municipal district shall, for the purposes of this Act, be deemed to be the list of voters for such ward.

(*2*) The officer designated by the Collector in this behalf in respect of a municipal district shall maintain a list of voters for each ward of such municipal district.

Explanation.—For the purposes of this section, electoral roll shall mean an electoral roll prepared under the provisions of the Representation of the People Act, 1950. XLIII of 1950.

Persons qualifed to vote and be elected.

13. (*1*) Every person whose name is in the list of voters referred to in section 12 shall, unless disqualified under this Act or any other law for the time being in force, be qualified to vote, and every person whose name is not in such list shall not be qualified to vote, at the election of a member for the ward to which such list pertains.

(*2*) Every person whose name is in the list of voters shall, unless disqualified under this Act or under any other law for the time being in force, be qualified to be elected, and every person whose name is not in such list shall not be qualified to be elected, at the election for any ward of the municipal district.

(*3*) Subject to any disqualification incurred by a person, the list of voters shall be conclusive evidence for the purpose of determining under this section whether the person is qualified or is not qualified to vote or is qualified or is not qualified to be elected, as the case may be at any election.]

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[1] Sub-section (*2*) was in serted by Sch. I of the Bombay Decentralization Act, 1915 (Bom. 3 of 1915).

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[3] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[4] The brackets and figures "(*iii*), (*iv*), (*v*)" were deleted by Bom. 35 of 1955, s. 2 (*2*).

[5] The words, figures and brackets "sub-section (*1*)" were substituted for the words "this section" by Bom. 12 of 1931, s. 2(*i*).

[6] Sections 12 and 13 were substituted for Sections 12, 13 and 13A. by Bom. 35 of 1955, s. 3.

Constitution of Municipalities in exceptional cases.

14. (*1*) (*a*) Nothing in the [1][[2][three]] sections last preceding shall apply to any permanent municipal district at a hill-station, or to any permanent municipal district to which, owing to the smallness of such district, or to the backward state or indifference of its inhabitants, or for other such exceptional reason, the [3][[4][State] Government] shall, in a notification setting forth such reasons and published in the [5][*Official Gazette*], at any time declare the provisions of the said sections to be unsuitable.

(*b*) In any such municipal district the Municipality shall consist either entirely of nominated councillors or partly of nominated and partly of elected councillors, in such proportions, and appointed or elected by such persons, in such manner, and subject to such conditions as the [3][[4][State] Government] in the notification published under clause (*a*) or in any subsequent notification published as aforesaid, shall think fit to prescribe.

(*c*) It shall be competent to the [3][[4][State] Government] at any time to alter or rescind any notification issued by [6][it] under this section and in the event of any notification under clause (*a*) being rescinded, the Municipality affected thereby shall, from a date to be fixed in the behalf by the [3][[4][State] Government], be constituted in accordance with the [1][[2][three]] sections last preceding.

Periodical municipal districts.

(*2*) The powers and duties conferred and imposed by this Act on Municipalities shall, in a periodical municipal district, be respectively exercised and discharged by a neighbouring Municipality nominated in this behalf by [7][the [4][State] Government], or by a Municipality specially constituted for the time being and consisting of such councillors nominated in such manner as the [3][[4][State] Government] directs.

Taxes, rules and by-laws in periodical municipal districts.

(*3*) If in any periodical municipal district, any tax has been or shall have been imposed or any rule or by-law has been or shall have been made, under the provisions of this Act or any Act hereby repealed, such tax, unless and until it has been modified, suspended or abolished, shall be leviable, and such rule or by-law, unless and until it has been altered or rescinded, shall have effect, in such district, throughout each recurring season during which the district is, by virtue of a declaration under section 6, a periodical municipal district.

(*3*) *Municipal Councillors.*

General disqualifications for becoming a councillor.

15. (*1*) No person may be a councillor—

[8][(*a*) who

[9][(*i*) has been convicted by a court in India of any offence and sentenced to transportation or to imprisonment for not less than two years unless a period of five years, or such less period as the State Government may allow in any particular case, has elapsed since his release ; or

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[1] This word was substituted for the word "three" by s. 2 and Sch. I of the Bombay Repealing and Amending Act, 1919 (Bom. 2 of 1919).
[2] This word was substituted for the word "four" by Bom. 35 of 1955, s. 4.
[3] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.
[4] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[5] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", by the Adaptation of Indian Laws Order in Council.
[6] The word "it" was substituted for the word "him" *ibid.*
[7] The words "the Provincial Government" were substituted for the word "Government", *ibid.*
[8] Clause (*a*) was substituted for the original clause by Bom. 15 of 1925, s. 2.
[9] Sub-clause (*i*) was substituted for the original by Bom. 26 of 1953, s. 3(*1*).

(*ii*) has been removed from office under section 16 [1][and five years have not elapsed from the date of such removal] unless he has, by an order which the [2][[3][State] Government] is hereby empowered to make, [4][it] shall think fit, in this behalf, been relieved from the disqualification arising on account of [5][such removal] from office,] or

(*b*) who is an uncertificated bankrupt or an undischarged insolvent,] or

[6][(*c*) who is of unsound mind and stands so declared by a competent court ; or

(*ca*) who has voluntarily acquired the citizenship of a foreign State, or is under any acknowledgment of allegiance or adherence to a foreign State ; or]

(*d*) who is a judge ;

and no person

(*e*) who is a subordinate officer or servant of a Municipality, or

[7][(*ea*) who fails to pay any arrears of any kind due by him to the Municipality (otherwise than as a trustee) within three months after a special notice in this behalf has been served upon him, or]

(*f*) who save as hereinafter provided has directly or indirectly by himself or his partner, any share or interest in any work done by order of a Municipality or in any contract or employment with or under, or by, or on behalf of, a Municipality, [8][or

(*g*) who has directly or indirectly, by himself or his partner, any share or interest in any transaction of loan of money advanced to, or borrowed from any officer or servant of the municipality,]

may be a councillor of such Municipality :

Provided that a person shall not be deemed to have incurred such disqualification or to have any share or interest in any such work or in any such contract or employment, by reason only of his—

(*i*) having any share or interest in any lease, sale or purchase of any immovable property or in any agreement for the same,

(*ii*) having a share in any joint-stock company [9][or in any society registered or deemed to be registered under the Bombay Co-operative Societies Act, 1925] which shall contract with, or be employed by, or on behalf of, the Municipality, or Bom. VII of 1925.

(*iii*) having a share or interest in any newspaper in which any advertisement relating to the affairs of the Municipality may be inserted, or

(*iv*) holding a debenture or being otherwise interested in any loan raised by or on behalf of the Municipality, or

[10](*v*) * * * * * * *

[11][(*vi*) having a share or interest in the occasional sale to the Municipality of any article in which he regularly trades, or in the purchase form the Municipality of any article, to a value in either case not exceeding in any official year five

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[1] These words were inserted by Bom. 26 of 1953, s. 3(*2*).

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[4] The word "It" was substituted for the word "he" by the Adaptation of Indian Laws Order in Council.

[5] These words were substituted for the words "such sentence or removal" by Bom. 35 of 1954, s. 3 (*1*) (*i*).

[6] These clauses were substituted for clause (*c*) by Bom. 35 of 1955, s. 5.

[7] Clause (*ea*) was inserted by Bom. 35 of 1954, s. 3 (*1*) (*ii*).

[8] Clause (*g*) was inserted by Bom. 52 of 1949, s. 3 (*1*) (*a*).

[9] These words were inserted, *ibid.* s. 3(*1*) (*b*).

[10] Clause (*v*) was deleted, *ibid.*

[11] These provisos were substituted for the original proviso by s. 5(*2*) of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

hundred rupees, or such higher amount not exceeding two thousand rupees as the Municipality with the sanction of [1][the [2][State] Government] may fix in this behalf, or]

[3][(*viA*) having a share or interest in the occasional letting out on hire to the Municipality or, in the hiring from the Municipality, of any article for an amount not exceeding in any official year fifty rupees, or such higher amount not exceeding two hundred rupees as the Municipality with the sanction of [1][the [2][State] Government] may fix in this behalf, or]

(*vii*) being a party to any agreement made with the Municipality under the provisions of [4][section 71] or of proviso (*a*) to sub-section (*1*) of section 156.

[5] * * * *

(*2*) If any councillor during the term for which he has been elected or appointed— Disabilities from continuing a councillor.

(*a*) becomes disqualified under sub-section (*1*), or

(*b*) acts as a councillor in any matter—

(*i*) in which he has directly, or indirectly, by himself or his partner, any such share or interest as is described in clause (*i*), (*ii*), (*iii*), (*vi*) or (*vii*) of the proviso to sub-section (*1*), or

(*ii*) in which he is professionally interested on behalf of a client, principal or other person, or

[6][(*bb*) is professionally interested or engaged in any case for or against the municipality, or]

(*c*) departs beyond the limits of the presidency with the declared or known intention of absenting himself continuously for a period exceeding six months, or

(*d*) [7]* * * * * * *

[8][(*e*) not being a president or vice-president or a salaried [9][servant of the [10][Government], absents himself during four successive months from the meetings of the Municipality, except with the leave of the municipality ;]

[11]* * * * * * * * *

he shall [12][subject to the provisions of sub-section (*3*)] be disabled from continuing to be a councillor and his office shall become vacant.

[13][*Explanation.*—For the purposes of clause (*e*) of this sub-section when a councillor applies for leave of absence, leave of the municipality shall be presumed to have been granted, unless it is refused within a period of ninety days from the date of his application.]

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[1] The words " the Provincial Government " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[3] These proviso were substituted for the original proviso by s. 5 (2) of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

[4] This word and these figures were substituted for the word and figures " section 73 " by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. 3 of 1902).

[5] Sub-sections (*1A*) and (*1B*) were deleted, by Bom. 53 of 1954, s. 2.

[6] Clause (*bb*) was inserted by Bom. 52 of 1949 s. 3 (*3*) (*a*).

[7] Clause (*d*) was deleted *ibid*, s. 3 (*3*) (*b*).

[8] This clause was substituted for the orginal clause by section 5 (*3*) of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

[9] The words " servant of the Crown " and " servants of the Crown " were substituted for the words " servant of Government " and "servants of Government" respectively by the Adaptation of Indian Laws Order in Council.

[10] The word " Government " was substituted for the word " Crown " by the Adaptation of Laws Order, 1950.

[11] Clause (*f*) was deleted by Bom. 35 of 1954, s. 3 (*2*).

[12] This portion was inserted by Bom. 8 of 1939, s. 2 (*a*) (*i*).

[13] This Explanation was added by Bom. 52 of 1949, s. 3 (*4*).

hundred rupees, or such higher amount not exceeding two thousand rupees as the Municipality with the sanction of [1][the [2][State] Government] may fix in this behalf, or]

[3][(*viA*) having a share or interest in the occasional letting out on hire to the Municipality or, in the hiring from the Municipality, of any article for an amount not exceeding in any official year fifty rupees, or such higher amount not exceeding two hundred rupees as the Municipality with the sanction of [1][the [2][State] Government] may fix in this behalf, or]

(*vii*) being a party to any agreement made with the Municipality under the provisions of [4][section 71] or of proviso (*a*) to sub-section (*1*) of section 156.

[5] * * * *

Disabilities from continuing a councillor.

(*2*) If any councillor during the term for which he has been elected or appointed—

(*a*) becomes disqualified under sub-section (*1*), or

(*b*) acts as a councillor in any matter—

(*i*) in which he has directly, or indirectly, by himself or his partner, any such share or interest as is described in clause (*i*), (*ii*), (*iii*), (*vi*) or (*vii*) of the proviso to sub-section (*1*), or

(*ii*) in which he is professionally interested on behalf of a client, principal or other person, or

[6][(*bb*) is professionally interested or engaged in any case for or against the municipality, or]

(*c*) departs beyond the limits of the presidency with the declared or known intention of absenting himself continuously for a period exceeding six months, or

(*d*) [7]* * * * * * *

[8][(*e*) not being a president or vice-president or a salaried [9][servant of the [10][Government], absents himself during four successive months from the meetings of the Municipality, except with the leave of the municipality ;]

[11]* * * * * * * * *

he shall [12][subject to the provisions of sub-section (*3*)] be disabled from continuing to be a councillor and his office shall become vacant.

[13][*Explanation.*—For the purposes of clause (*e*) of this sub-section when a councillor applies for leave of absence, leave of the municipality shall be presumed to have been granted, unless it is refused within a period of ninety days from the date of his application.]

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[1] The words " the Provincial Government " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[3] These proviso were substituted for the original proviso by s. 5 (2) of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

[4] This word and these figures were substituted for the word and figures " section 73 " by s. 2 of the Bombay District Municipal Act (1001) Amendment Act, 1902 (Bom. 3 of 1902).

[5] Sub-sections (*1A*) and (*1B*) were deleted, by Bom. 53 of 1954, s. 2.

[6] Clause (*bb*) was inserted by Bom. 52 of 1949 s. 3 (*3*) (*a*).

[7] Clause (*d*) was deleted *ibid*, s. 3 (*3*) (*b*).

[8] This olause was substituted for the orginal clause by section 5 (*3*) of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

[9] The words " servant of the Crown " and " servants of the Crown " were substituted for the words " servant of Government " and "servants of Government " respectively by the Adaptation of Indian Laws Order in Council.

[10] The word " Government " was substituted for the word " Crown " by the Adaptation of Laws Order, 1950.

[11] Clause (*f*) was deleted by Bom. 35 of 1954, s. 3 (*2*).

[12] This portion was inserted by Bom. 8 of 1939, s. 2 (*a*) (*i*).

[13] This Explanation was added by Bom. 52 of 1949, s. 3 (*4*).

Powers of [1][State] Government and of the Commissioner to decide whether vacancy has occurred.

[2][(*3*) In every case, the authority competent to decide whether a vacancy has occurred under this section shall be the Collector. The Collector may give his decision either on an application made to him by any person or on his own motion. Until the Collector decides that the vacancy has arisen, the councillor shall not be disabled under sub-section (*2*) from continuing to be a councillor. [3][Any person aggrieved by the decision of the Collector may, within a period of fifteen days from the date of such decision, appeal] to the [4][State] Government in the case of city municipalities and to the Commissioner in other cases and the orders passed by the [1][State] Government or the Commissioner in such appeal shall be final:

Provided that no order shall be passed under this sub-section by the Collector against any councillor without giving him a reasonable opportunity of being heard.]

Resignation.

[4][**15A**. Any councillor may resign his office by giving notice in writing to that effect to the president, and the president may resign his office by giving notice in writing to that effect to the Commissioner.]

Liability to removal from office.

16. The [5][[1][State] Government] [6][in the case of City Municipalities, and the Commissioner in other cases,] if [7][it or he] thinks fit, on the recommendation of the Municipality, may remove any councillor elected or appointed under this Act, if such councillor has been guilty of misconduct in the discharge of his duties, or of any disgraceful conduct, or has become incapable of performing his duties as a councillor.

Term of office.

[8][**17.** (*1*)] Councillors nominated or elected at a general election under this Act shall save as provided in the next following section, or unless they become in the meantime disabled, or are removed from office under section 16, or section 179, hold office for a term of [9][four] years, extensible by order of the Commissioner to a term not exceeding in the aggregate [10][five]* years if on any occasion, the Commissioner shall think fit, for reasons which shall be notified together with the order in the [11][*Official Gazette*], so to extend the same:

[12][Provided that before such order is made the Commissioner shall invite and consider objections, if any, from the voters entitled to vote at the municipal election in the municipal district concerned.]

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[1] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[2] This sub-section was substituted for the original by Bom. 8 of 1939, s. 2 (*a*) (*ii*).

[3] These words were substituted for the words "An appeal shall be against every such decision of the Collector" by Bom. 52 of 1949, s. 3 (*5*).

[4] Section 15A was inserted by s. 6 of the Bombay District Municipal (Amendment) Act, 1914 (Bom. 8 of 1914).

[5] The words "Provincial Government" were substituted for the words "Government in Council" by the Adaptation of Indian Laws Order in Council.

[6] These words were inserted by Sch. I of the Bombay Decentalization Act, 1915 (Bom. 3 of 1915).

[7] The words "it or he" were substituted for the word "he" by the Adaptation of Indian Laws Order in Council.

[8] Section 17 was renumbered as section 17 (*1*) by Bom. 26 of 1930, s. 2 (*1*).

[9] This word was substituted for the word "three" by Bom. 35 of 1954, s. 4.

[10] This word was substituted for the word "four" *ibid.*

[11] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[12] This proviso was added by Bom. 26 of 1930, s. 2 (*1*).

*Section 3 of Bom. 17 of 1950 reads as follows :—

Temporary amendment of section 17 of Bom. III of 1901.

"3. During the period from the commencement of this Act to 31st March 1952, section 17 of the Bombay District Municipal Act, 1901, shall have effect as if for the words 'four years', the words 'five years' had been substituted." Bom. III of 1901.

[1][(2) (a) The term of office of such councillors shall be deemed to commence on the date of the first general meeting which shall be held after such election and after the expiry of the term of the outgoing councillors hereinbefore provided and at which a quorum shall be present ; and

(b) the term of office of the outgoing councillors shall be deemed to extend to and expire with the day before the date of such meeting.]

[2][**18.** (1)] In the event of the death, resignation, disqualification, disability or removal of a councillor previous to the expiry of his term of office, the vacancy shall be filled up, as soon as it conveniently may be, by the election or appointment, as the case may be, of a person thereto, who shall hold office so long only as the councillor in whose place he is elected or appointed would have held it if the vacancy had not occurred : Casual vacancies how to be filled up.

[3][Provided that no election shall be held to fill up a vacancy occurring within four months of the date on which the term of office of the Councillors expires under section 17.]

[4][(2) A Councillor [5]* * * * * whose office has become vacant under sub-section (2) of [6]* * section 15 shall, if his disability has ceased, be eligible for re-election.]

19. A person who has already been elected or appointed a councillor on one or more occasions shall, if otherwise duly qualified, be eligible at any time for re-election or re-appointment. Re-eligibility of councillors.

20. The names of all councillors finally elected to any Municipality, as well as the names of the nominated councillors, if any, appointed thereto, shall be published, as soon as conveniently may be, in the [7][*Official Gazette*]. Publication of names of councillors in the *Official Gazette*.

(4) *Municipal Elections.*

[8][**21.** No person shall vote at any municipal election under this Act, if he— General disqualifications of voters.

(a) is of unsound mind and stands so declared by a competent court, or

(b) has voluntarily acquired the citizenship of a foreign State, or is under any acknowledgment of allegiance or adherence to a foreign State.

21A. (1) No person shall vote at a general election in more than one ward and if a person votes in more than one ward, his vote in all such wards shall be void. Right to vote.

(2) No person shall at any election vote in the same ward more than once, notwithstanding that his name may have been entered in the list of voters for that ward more than once, and if he does so vote, all his votes in that ward shall be void.]

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[1] Sub-section (2) was inserted by Bom. 26 of 1930, s. 2 (2).
[2] Section 18 was renumbered as section 18(1) by Bom. 52 of 1949, s. 4.
[3] This proviso was added by Bom. 35 of 1955, s. 6.
[4] Sub-section (2) was inserted by Bom. 52 of 1949, s. 4.
[5] The words, brackets, figures and letter " whose seat has been deemed vacant under sub-section (1A) of section 15 or " were deleted by Bom. 53 of 1954, s. 3.
[6] The words " the said " were deleted, *ibid.*
[7] The words " *Official Gazette* " were substituted for the words " *Bombay Government Gazette* " by the Adaptation of Indian Laws Order in Council.
[8] Sections 21 and 21A were inserted by Bom. 35 of 1955, s. 7.

Determination of validity of elections.

22. (*1*) If the validity of any election of a councillor is brought in question by any person qualified either to be elected or to vote at the election to which such question refers, such person may, at any time within ten days after the date of the declaration of the result of the election, apply to the district Judge of the district within which the election has been or should have been held :

[1]* * * * * * * *

Powers of Judge holding inquiry.

(*2*) [2][An inquiry shall thereupon be held by a Judge, not below the grade of an Assistant Judge, appointed by the [3][[4][State] Government] either specially for the case or for such cases generally, and such Judge] may, after such inquiry as he deems necessary, and subject to the provisions of sub-section (*3*), pass an order confirming or amending the declared result of the election, or setting the election aside. For the purposes of the said inquiry the said Judge may summon and enforce the attendance of witnesses, and compel them to give evidence as if he were a Civil Court, and he may also direct by whom the whole or any part of the costs of any such inquiry shall be paid, and such costs shall be recoverable as if they had been awarded in a suit under the Code of Civil Procedure. The decision or order shall be conclusive. If he sets aside an election, a date shall forthwith be fixed and the necessary steps taken for holding a fresh one.

[5][*2A*) All applications received under sub-section (*1*)—

(*a*) in which the validity of the election of councillors elected to represent the same constituency is in question shall be heard by the same Judge ; and

(*b*) in which the validity of the election of the same councillor elected to represent the same constituency is in question shall be heard together.

Explanation.—For the purposes of this sub-section a constituency shall mean each ward [6]* * * * constituted [6]* * to elect councillors.]

[5][(*2B*) Notwithstanding anything contained in the Code of Civil Procedure, 1908, the Judge shall not permit (*a*) any application to be compromised or withdrawn or (*b*) any person to alter or amend any pleading, unless he is satisfied that such application for compromise or withdrawal or the application for such alteration or amendment is *bona fide* and not collusive.] V of 1908.

Declaration in case of corrupt practice by a candidate.

(*3*) (*a*) The Judge, if satisfied that a candidate has, within the meaning of sub-section (*4*), committed any corrupt practice for the purpose of the election, shall declare the candidate disqualified both for the purpose of that election, and of such fresh election as may be held under sub-section (*2*), and shall set aside the election of such candidate if he has been elected.

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[1] Proviso was deleted by Bom. 17 of 1945, s. 9, read with Bom. 8 of 1950.

[2] These words were substituted for the words " The District Judge or such other Judge as may be appointed by the Government in Council on this behalf " by s. 5(*2*) of the Bombay Municipal and Local Board (Amendment) Act, 1917 (Bom. 6 of 1917).

[3] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

[4] The word " State " was substituted for the word "Provincial " by the Adaptation of Laws Order, 1950.

[5] Sub-sections (*2A*) and (*2B*) were inserted by Bom. 14 of 1906, s. 2 (*1*).

[6] The words " or a public body or association " and the words " or entitled " were deleted by Bom. 35 of 1955, s. 8.

(*b*) if in any case to which clause (*a*) does not apply, the validity of an election is in dispute betweeen two or more candidates, the Judge shall, after a scrutiny and computation of the votes recorded in favour of each such candidate, declare the candidate who is found to have the greatest number of valid votes in his favour, to have been duly elected : Scrutiny of votes and declaration in other cases.

Provided that for the purpose of such computation no vote shall be reckoned as valid if the Judge finds that any corrupt practice was committed by any person, known or unknown in giving or obtaining it :

[1][Provided further that after such computation, if any equality of votes is found to exist between any candidates and the addition of one vote will entitle any of the candidates to be declared elected, one additional vote shall be added to the total number of valid votes found to have been recorded in favour of the candidate, or candidates, as the case may be, selected by lot drawn in the presence of the Judge in such manner as he may determine.]

(*4*) A person shall be deemed to have committed a corrupt practice within the meaning of the last preceding sub-section, What is a corrupt practice.

(*i*) who with a view to inducing any voter to give or to refrain from giving a vote in favour of any candidate, offers or gives any money or valuable consideration, or holds out any promise of individual profit or holds out any threat of injury, to any person, or,

(*ii*) who gives, procures, or abets the giving of a vote in the name of a voter who is not the person giving such vote [2][, or

(*iii*) who hires or procures, whether on payment or otherwise, any vehicle or vessel for the conveyance of any voter to, or from, any polling station :

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[1] This proviso was added by Bom. 52 of 1949, s. 5.
[2] The word " or " and clause (*iii*) were inserted by Bom. 35 of 1954, s. 5.

Provided that—

(*a*) the hiring of a vehicle or vessel by a candidate for himself or his family or an election agent shall not be deemed to be a corrupt practice under this clause;

(*b*) the hiring of a vehicle or vessel by a voter or by several voters at their joint cost for the purpose of conveying him or them to, or from, any such polling station shall not be deemed to be a corrupt practice under this clause, if the vehicle or vessel so hired is a vehicle or vessel not propelled by mechanical power;

(*c*) the use of any public transport vehicle or vessel or any tram-car or railway carriage by any voter at his own cost for the purpose of going to, or coming from, any such polling station shall not be deemed to be a corrupt practice under this clause.]

Candidate when deemed to have committed corrupt practice.

And a corrupt practice shall be deemed to have been committed by a candidate, if it has been committed with his knowledge and consent, or by a person who is acting under the general or special authority of such candidate with reference to the election.

Promise of individual profit.

Explanation.—A " promise of individual profit " includes a promise for the benefit of the person himself, or of any one in whom he is interested. It does not include a promise to vote for or against any particular municipal measure.

Mere irregularities and informalities not to invalidate election.

(*5*) If the validity of the election is brought in question only on the ground of any error by the officer or officers charged with carrying out the rules made under clause (*c*) [1][of sub-section (*1*)] of section 11, or of an irregularity or informality not corruptly caused, the Judge, shall not set aside the election.

Disqualification of candidate for corrupt practice.

(*6*) If the Judge sets aside an election under clause (*a*) of sub-section (*3*) he may, if he thinks fit, declare any person by whom any corrupt practice has been committed within the meaning of this section, to be disqualified from being a candidate in that or any other municipal district for a term of years not exceeding seven, and the Judge's decision shall be conclusive : provided, however, that such person may by an order which the [2][[3]State] Government] is hereby empowered to make if [4][it] shall think fit, in that behalf, be at any time relieved from such disqualification.

Corrupt practices : criminal offences and procedure.

[5][22A. (*1*) (*a*) Whoever in any election under this Act, directly or indirectly, by himself or by any other person on his behalf, shall, with a view to inducing any voter to give or to refrain from giving a vote in favour of any candidate, offer or give any money or valuable consideration or hold out any promise of individual profit or hold out any threat of injury to any person, [6][or]

(*b*) whoever shall give, procure, or abet the giving of a vote in the name of a voter, who is not the person giving such vote,

[6][or

(*c*) whoever hires or procures any vehicle or vessel for the conveyance of any voter to, or from, a polling station in the circumstances described in clause (*iii*) of sub-section (*4*) of section 22],

shall be liable to a fine not exceeding two hundred rupees for every such offence.

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[1] The words, figure and brackets " of sub-section (*1*) " were inserted by, Bom. 12 of 1931, s. 2 (*ii*).

[2] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

[3] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[4] The word " it " was substituted for the word " he ", by the Adaptation of Indian Laws Order in Council.

[5] Section 22A was inserted by s. 2 of the Bombay Municipal and Local Boards (Amendment) Act, 1917 (Bom. 6 of 1917).

[6] This word was substituted for the word " and " by Bom. 35 of 1954, s. 6 (*a*).

[7] Clause (*c*) was inserted *ibid*, s. 6 (*b*).

(*2*) Whoever being qualified to vote at any election under this Act or claiming to be so qualified accepts or obtains or agrees to accept or attempts to obtain for himself or for any other person any money or valuable consideration or any individual profit as a motive or reward for giving or forbearing to give his vote in any such election shall be liable to a fine not exceeding one hundred rupees for every such offence.

Explanation.—In sub-section (*1*) and sub-section (*2*) "individual profit" includes a benefit accruing to the person himself or to any one in whom he is interested. It does not include a promise to vote for or against any measure which may come before a Municipality for consideration.

(*3*) Every person convicted under sub-section (*1*) or sub-section (*2*) shall, for such period not exceeding seven years from the date of the conviction as the Court may direct, be disqualified from voting at any municipal election or at any election to a local board constituted under the [1]Bombay Local Boards Act, 1884, and from being a councillor in any municipal district or a member of any such local board. Bom. I of 1884.

(*4*) An offence under this section shall not be triable by a Criminal Court inferior to that of a Magistrate of the first class and shall not be triable in a summary way.

(*5*) No Court shall take cognizance of any offence under this section except on the complaint of the Judge who has held an inquiry under section 22, or before whom such inquiry is pending.

(*6*) No prosecution for an offence under this section shall be instituted except within the six months next after the date of the declaration of the result of the election.

(*7*) An appeal shall lie to the Court of Session against any sentence or order passed by a Magistrate under sub-section (*1*), sub-section (*2*) or sub-section (*3*).]

Prohibition of canvassing in or near polling stations.

[2][**22B.** (*1*) No person shall, on the date or dates on which a poll is taken at any polling station, commit any of the following acts within the polling station or in any public or private place within a distance of one hundred yards of the polling station, namely :—

(*a*) canvassing for votes ; or

(*b*) soliciting the vote of any voter ; or

(*c*) persuading any voter not to vote for any particular candidate ; or

(*d*) persuading any voter not to vote at the election; or

(*e*) exhibiting any notice or sign (other than an official notice) relating to the election.

(*2*) Any person who contravenes the provisions of sub-section (*1*) shall, on conviction, be punished with fine which may extend to two hundred and fifty rupees.

(*3*) Any offence punishable under this section shall be cognizable.

Penalty for disorderly conduct in or near polling stations.

22C. (*1*) No person shall, on the date or dates on which a poll is taken at any polling station—

(*a*) use or operate within or at the entrance of the polling station, or in any public or private place in the neighbourhood thereof, any apparatus for amplifying or reproducing the human voice, such as a megaphone or a loud speaker, or

(*b*) shout, or otherwise act in a disorderly manner, within or at the entrance of the polling station or in any public or private place in the neighbourhood thereof,

so as to cause annoyance to any person visiting the polling station for the poll, or so as to interfere with the work of the officers and other persons on duty at the polling station.

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[1] *See* now the Bombay Local Boards Act, 1923 (Bom. 6 of 1923).

[2] Sections 22B to 22J were inserted by Bom. 35 of 1954, s. 7.

hundred rupees, or such higher amount not exceeding two thousand rupees as the Municipality with the sanction of [1][the [2][State] Government] may fix in this behalf, or]

[3][(*viA*) having a share or interest in the occasional letting out on hire to the Municipality or, in the hiring from the Municipality, of any article for an amount not exceeding in any official year fifty rupees, or such higher amount not exceeding two hundred rupees as the Municipality with the sanction of [1][the [2][State] Government] may fix in this behalf, or]

(*vii*) being a party to any agreement made with the Municipality under the provisions of [4][section 71] or of proviso (*a*) to sub-section (*1*) of section 156.

[5] * * * *

(*2*) If any councillor during the term for which he has been elected or appointed— Disabilities from continuing a councillor.

(*a*) becomes disqualified under sub-section (*1*), or

(*b*) acts as a councillor in any matter—

(*i*) in which he has directly, or indirectly, by himself or his partner, any such share or interest as is described in clause (*i*), (*ii*), (*iii*), (*vi*) or (*vii*) of the proviso to sub-section (*1*), or

(*ii*) in which he is professionally interested on behalf of a client, principal or other person, or

[6][(*bb*) is professionally interested or engaged in any case for or against the municipality, or]

(*c*) departs beyond the limits of the presidency with the declared or known intention of absenting himself continuously for a period exceeding six months, or

(*d*) [7]* * * * * * *

[8][(*e*) not being a president or vice-president or a salaried [9][servant of the [10][Government], absents himself during four successive months from the meetings of the Municipality, except with the leave of the municipality ;]

[11]* * * * * * * * *

he shall [12][subject to the provisions of sub-section (*3*)] be disabled from continuing to be a councillor and his office shall become vacant.

[13][*Explanation.*—For the purposes of clause (*e*) of this sub-section when a councillor applies for leave of absence, leave of the municipality shall be presumed to have been granted, unless it is refused within a period of ninety days from the date of his application.]

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[1] The words " the Provincial Government " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[3] These proviso were substituted for the original proviso by s. 5 (2) of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

[4] This word and these figures were substituted for the word and figures " section 73 " by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. 3 of 1902).

[5] Sub-sections (*1A*) and (*1B*) were deleted, by Bom. 53 of 1954, s. 2.

[6] Clause (*bb*) was inserted by Bom. 52 of 1949 s. 3 (*3*) (*a*).

[7] Clause (*d*) was deleted *ibid*, s. 3 (*3*) (*b*).

[8] This clause was substituted for the orginal clause by section 5 (*3*) of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

[9] The words " servant of the Crown " and " servants of the Crown " were substituted for the words " servant of Government " and "servants of Government" respectively by the Adaptation of Indian Laws Order in Council.

[10] The word " Government " was substituted for the word " Crown " by the Adaptation of Laws Order, 1950.

[11] Clause (*f*) was deleted by Bom. 35 of 1954, s. 3 (*2*).

[12] This portion was inserted by Bom. 8 of 1939, s. 2 (*a*) (*i*).

[13] This Explanation was added by Bom. 52 of 1949, s. 3 (*4*).

Powers of [1][State] Government and of the Commissioner to decide whether vacancy has occurred.

[2][(3) In every case, the authority competent to decide whether a vacancy has occurred under this section shall be the Collector. The Collector may give his decision either on an application made to him by any person or on his own motion. Until the Collector decides that the vacancy has arisen, the councillor shall not be disabled under sub-section (2) from continuing to be a councillor. [3][Any person aggrieved by the decision of the Collector may, within a period of fifteen days from the date of such decision, appeal] to the [4][State] Government in the case of city municipalities and to the Commissioner in other cases and the orders passed by the [1][State] Government or the Commissioner in such appeal shall be final:

Provided that no order shall be passed under this sub-section by the Collector against any councillor without giving him a reasonable opportunity of being heard.]

Resignation.

[4][**15A**. Any councillor may resign his office by giving notice in writing to that effect to the president, and the president may resign his office by giving notice in writing to that effect to the Commissioner.]

Liability to removal from office.

16. The [5][[1][State] Government] [6][in the case of City Municipalities, and the Commissioner in other cases,] if [7][it or he] thinks fit, on the recommendation of the Municipality, may remove any councillor elected or appointed under this Act, if such councillor has been guilty of misconduct in the discharge of his duties, or of any disgraceful conduct, or has become incapable of performing his duties as a councillor.

Term of office.

[8][**17.** (*1*)] Councillors nominated or elected at a general election under this Act shall save as provided in the next following section, or unless they become in the meantime disabled, or are removed from office under section 16, or section 179, hold office for a term of [9][four] years, extensible by order of the Commissioner to a term not exceeding in the aggregate [10][five]* years if on any occasion, the Commissioner shall think fit, for reasons which shall be notified together with the order in the [11][*Official Gazette*], so to extend the same:

[12][Provided that before such order is made the Commissioner shall invite and consider objections, if any, from the voters entitled to vote at the municipal election in the municipal district concerned.]

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[1] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[2] This sub-section was substituted for the original by Bom. 8 of 1939, s. 2 (*a*) (*ii*).

[3] These words were substituted for the words "An appeal shall be against every such decision of the Collector" by Bom. 52 of 1949, s. 3 (*5*).

[4] Section 15A was inserted by s. 6 of the Bombay District Municipal (Amendment) Act, 1914 (Bom. 8 of 1914).

[5] The words "Provincial Government" were substituted for the words "Government in Council" by the Adaptation of Indian Laws Order in Council.

[6] These words were inserted by Sch. I of the Bombay Decentalization Act, 1915 (Bom. 3 of 1915).

[7] The words "it or he" were substituted for the word "he" by the Adaptation of Indian Laws Order in Council.

[8] Section 17 was renumbered as section 17 (*1*) by Bom. 26 of 1930, s. 2 (*1*).

[9] This word was substituted for the word "three" by Bom. 35 of 1954, s. 4.

[10] This word was substituted for the word "four" *ibid.*

[11] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[12] This proviso was added by Bom. 26 of 1930, s. 2 (*1*).

*Section 3 of Bom. 17 of 1950 reads as follows :—

Temporary amendment of section 17 of Bom. III of 1901.

"3. During the period from the commencement of this Act to 31st March 1952, section 17 of the Bombay District Municipal Act, 1901, shall have effect as if for the words 'four years', the words 'five years' had been substituted." Bom. III of 1901.

[1][(2) (a) The term of office of such councillors shall be deemed to commence on the date of the first general meeting which shall be held after such election and after the expiry of the term of the outgoing councillors hereinbefore provided and at which a quorum shall be present ; and

(b) the term of office of the outgoing councillors shall be deemed to extend to and expire with the day before the date of such meeting.]

[2][**18.** (1)] In the event of the death, resignation, disqualification, disability or removal of a councillor previous to the expiry of his term of office, the vacancy shall be filled up, as soon as it conveniently may be, by the election or appointment, as the case may be, of a person thereto, who shall hold office so long only as the councillor in whose place he is elected or appointed would have held it if the vacancy had not occurred : Casual vacancies how to be filled up.

[3][Provided that no election shall be held to fill up a vacancy occurring within four months of the date on which the term of office of the Councillors expires under section 17.]

[4][(2) A Councillor [5]* * * * * whose office has become vacant under sub-section (2) of [6]* * section 15 shall, if his disability has ceased, be eligible for re-election.]

19. A person who has already been elected or appointed a councillor on one or more occasions shall, if otherwise duly qualified, be eligible at any time for re-election or re-appointment. Re-eligibility of councillors.

20. The names of all councillors finally elected to any Municipality, as well as the names of the nominated councillors, if any, appointed thereto, shall be published, as soon as conveniently may be, in the [7][*Official Gazette*]. Publication of names of councillors in the *Official Gazette*.

(4) *Municipal Elections.*

[8][**21.** No person shall vote at any municipal election under this Act, if he— General disqualifications of voters.

(a) is of unsound mind and stands so declared by a competent court, or

(b) has voluntarily acquired the citizenship of a foreign State, or is under any acknowledgment of allegiance or adherence to a foreign State.

21A. (1) No person shall vote at a general election in more than one ward and if a person votes in more than one ward, his vote in all such wards shall be void. Right to vote.

(2) No person shall at any election vote in the same ward more than once, notwithstanding that his name may have been entered in the list of voters for that ward more than once, and if he does so vote, all his votes in that ward shall be void.]

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[1] Sub-section (2) was inserted by Bom. 26 of 1930, s. 2 (2).
[2] Section 18 was renumbered as section 18(1) by Bom. 52 of 1949, s. 4.
[3] This proviso was added by Bom. 35 of 1955, s. 6.
[4] Sub-section (2) was inserted by Bom. 52 of 1949, s. 4.
[5] The words, brackets, figures and letter " whose seat has been deemed vacant under sub-section (1A) of section 15 or " were deleted by Bom. 53 of 1954, s. 3.
[6] The words " the said " were deleted, *ibid.*
[7] The words " *Official Gazette* " were substituted for the words " *Bombay Government Gazette* " by the Adaptation of Indian Laws Order in Council.
[8] Sections 21 and 21A were inserted by Bom. 35 of 1955, s. 7.

Determination of validity of elections.

22. (*1*) If the validity of any election of a councillor is brought in question by any person qualified either to be elected or to vote at the election to which such question refers, such person may, at any time within ten days after the date of the declaration of the result of the election, apply to the district Judge of the district within which the election has been or should have been held :

[1]* * * * * * * *

Powers of Judge holding inquiry.

(*2*) [2][An inquiry shall thereupon be held by a Judge, not below the grade of an Assistant Judge, appointed by the [3][[4][State] Government] either specially for the case or for such cases generally, and such Judge] may, after such inquiry as he deems necessary, and subject to the provisions of sub-section (*3*), pass an order confirming or amending the declared result of the election, or setting the election aside. For the purposes of the said inquiry the said Judge may summon and enforce the attendance of witnesses, and compel them to give evidence as if he were a Civil Court, and he may also direct by whom the whole or any part of the costs of any such inquiry shall be paid, and such costs shall be recoverable as if they had been awarded in a suit under the Code of Civil Procedure. The decision or order shall be conclusive. If he sets aside an election, a date shall forthwith be fixed and the necessary steps taken for holding a fresh one.

[5][*2A*) All applications received under sub-section (*1*)—

(*a*) in which the validity of the election of councillors elected to represent the same constituency is in question shall be heard by the same Judge ; and

(*b*) in which the validity of the election of the same councillor elected to represent the same constituency is in question shall be heard together.

Explanation.—For the purposes of this sub-section a constituency shall mean each ward [6]* * * * constituted [6]* * to elect councillors.]

[5][(*2B*) Notwithstanding anything contained in the Code of Civil Procedure, 1908, the Judge shall not permit (*a*) any application to be compromised or withdrawn or (*b*) any person to alter or amend any pleading, unless he is satisfied that such application for compromise or withdrawal or the application for such alteration or amendment is *bona fide* and not collusive.] V of 1908.

Declaration in case of corrupt practice by a candidate.

(*3*) (*a*) The Judge, if satisfied that a candidate has, within the meaning of sub-section (*4*), committed any corrupt practice for the purpose of the election, shall declare the candidate disqualified both for the purpose of that election, and of such fresh election as may be held under sub-section (*2*), and shall set aside the election of such candidate if he has been elected.

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[1] Proviso was deleted by Bom. 17 of 1945, s. 9, read with Bom. 8 of 1950.

[2] These words were substituted for the words " The District Judge or such other Judge as may be appointed by the Government in Council on this behalf " by s. 5(*2*) of the Bombay Municipal and Local Board (Amendment) Act, 1917 (Bom. 6 of 1917).

[3] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

[4] The word " State " was substituted for the word "Provincial " by the Adaptation of Laws Order, 1950.

[5] Sub-sections (*2A*) and (*2B*) were inserted by Bom. 14 of 1906, s. 2 (*1*).

[6] The words " or a public body or association " and the words " or entitled " were deleted by Bom. 35 of 1955, s. 8.

(*b*) if in any case to which clause (*a*) does not apply, the validity of an election is in dispute betweeen two or more candidates, the Judge shall, after a scrutiny and computation of the votes recorded in favour of each such candidate, declare the candidate who is found to have the greatest number of valid votes in his favour, to have been duly elected : Scrutiny of votes and declaration in other cases.

Provided that for the purpose of such computation no vote shall be reckoned as valid if the Judge finds that any corrupt practice was committed by any person, known or unknown in giving or obtaining it :

[1][Provided further that after such computation, if any equality of votes is found to exist between any candidates and the addition of one vote will entitle any of the candidates to be declared elected, one additional vote shall be added to the total number of valid votes found to have been recorded in favour of the candidate, or candidates, as the case may be, selected by lot drawn in the presence of the Judge in such manner as he may determine.]

(*4*) A person shall be deemed to have committed a corrupt practice within the meaning of the last preceding sub-section, What is a corrupt practice.

(*i*) who with a view to inducing any voter to give or to refrain from giving a vote in favour of any candidate, offers or gives any money or valuable consideration, or holds out any promise of individual profit or holds out any threat of injury, to any person, or,

(*ii*) who gives, procures, or abets the giving of a vote in the name of a voter who is not the person giving such vote [2][, or

(*iii*) who hires or procures, whether on payment or otherwise, any vehicle or vessel for the conveyance of any voter to, or from, any polling station :

---

[1] This proviso was added by Bom. 52 of 1949, s. 5.
[2] The word " or " and clause (*iii*) were inserted by Bom. 35 of 1954, s. 5.

Provided that—

(*a*) the hiring of a vehicle or vessel by a candidate for himself or his family or an election agent shall not be deemed to be a corrupt practice under this clause;

(*b*) the hiring of a vehicle or vessel by a voter or by several voters at their joint cost for the purpose of conveying him or them to, or from, any such polling station shall not be deemed to be a corrupt practice under this clause, if the vehicle or vessel so hired is a vehicle or vessel not propelled by mechanical power;

(*c*) the use of any public transport vehicle or vessel or any tram-car or railway carriage by any voter at his own cost for the purpose of going to, or coming from, any such polling station shall not be deemed to be a corrupt practice under this clause.]

Candidate when deemed to have committed corrupt practice.

And a corrupt practice shall be deemed to have been committed by a candidate, if it has been committed with his knowledge and consent, or by a person who is acting under the general or special authority of such candidate with reference to the election.

Promise of individual profit.

Explanation.—A " promise of individual profit " includes a promise for the benefit of the person himself, or of any one in whom he is interested. It does not include a promise to vote for or against any particular municipal measure.

Mere irregularities and informalities not to invalidate election.

(*5*) If the validity of the election is brought in question only on the ground of any error by the officer or officers charged with carrying out the rules made under clause (*c*) [1][of sub-section (*1*)] of section 11, or of an irregularity or informality not corruptly caused, the Judge, shall not set aside the election.

Disqualification of candidate for corrupt practice.

(*6*) If the Judge sets aside an election under clause (*a*) of sub-section (*3*) he may, if he thinks fit, declare any person by whom any corrupt practice has been committed within the meaning of this section, to be disqualified from being a candidate in that or any other municipal district for a term of years not exceeding seven, and the Judge's decision shall be conclusive : provided, however, that such person may by an order which the [2][[3][State] Government] is hereby empowered to make if [4][it] shall think fit, in that behalf, be at any time relieved from such disqualification.

Corrupt practices : criminal offences and procedure.

[5][**22A.** (*1*) (*a*) Whoever in any election under this Act, directly or indirectly, by himself or by any other person on his behalf, shall, with a view to inducing any voter to give or to refrain from giving a vote in favour of any candidate, offer or give any money or valuable consideration or hold out any promise of individual profit or hold out any threat of injury to any person, [6][or]

(*b*) whoever shall give, procure, or abet the giving of a vote in the name of a voter, who is not the person giving such vote,

[6][or

(*c*) whoever hires or procures any vehicle or vessel for the conveyance of any voter to, or from, a polling station in the circumstances described in clause (*iii*) of sub-section (*4*) of section 22],

shall be liable to a fine not exceeding two hundred rupees for every such offence.

---

[1] The words, figure and brackets " of sub-section (*1*) " were inserted by, Bom. 12 of 1931, s. 2 (*ii*).

[2] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

[3] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[4] The word " it " was substituted for the word " he ", by the Adaptation of Indian Laws Order in Council.

[5] Section 22A was inserted by s. 2 of the Bombay Municipal and Local Boards (Amendment) Act, 1917 (Bom. 6 of 1917).

[6] This word was substituted for the word " and " by Bom. 35 of 1954, s. 6 (*a*).

[7] Clause (*c*) was inserted *ibid*, s. 6 (*b*).

(*2*) Whoever being qualified to vote at any election under this Act or claiming to be so qualified accepts or obtains or agrees to accept or attempts to obtain for himself or for any other person any money or valuable consideration or any individual profit as a motive or reward for giving or forbearing to give his vote in any such election shall be liable to a fine not exceeding one hundred rupees for every such offence.

Explanation.—In sub-section (*1*) and sub-section (*2*) "individual profit" includes a benefit accruing to the person himself or to any one in whom he is interested. It does not include a promise to vote for or against any measure which may come before a Municipality for consideration.

(*3*) Every person convicted under sub-section (*1*) or sub-section (*2*) shall, for such period not exceeding seven years from the date of the conviction as the Court may direct, be disqualified from voting at any municipal election or at any election to a local board constituted under the [1]Bombay Local Boards Act, 1884, and from being a councillor in any municipal district or a member of any such local board. Bom. I of 1884.

(*4*) An offence under this section shall not be triable by a Criminal Court inferior to that of a Magistrate of the first class and shall not be triable in a summary way.

(*5*) No Court shall take cognizance of any offence under this section except on the complaint of the Judge who has held an inquiry under section 22, or before whom such inquiry is pending.

(*6*) No prosecution for an offence under this section shall be instituted except within the six months next after the date of the declaration of the result of the election.

(*7*) An appeal shall lie to the Court of Session against any sentence or order passed by a Magistrate under sub-section (*1*), sub-section (*2*) or sub-section (*3*).]

Prohibition of canvassing in or near polling stations.

[2][**22B.** (*1*) No person shall, on the date or dates on which a poll is taken at any polling station, commit any of the following acts within the polling station or in any public or private place within a distance of one hundred yards of the polling station, namely :—

(*a*) canvassing for votes ; or

(*b*) soliciting the vote of any voter ; or

(*c*) persuading any voter not to vote for any particular candidate ; or

(*d*) persuading any voter not to vote at the election; or

(*e*) exhibiting any notice or sign (other than an official notice) relating to the election.

(*2*) Any person who contravenes the provisions of sub-section (*1*) shall, on conviction, be punished with fine which may extend to two hundred and fifty rupees.

(*3*) Any offence punishable under this section shall be cognizable.

Penalty for disorderly conduct in or near polling stations.

22C. (*1*) No person shall, on the date or dates on which a poll is taken at any polling station—

(*a*) use or operate within or at the entrance of the polling station, or in any public or private place in the neighbourhood thereof, any apparatus for amplifying or reproducing the human voice, such as a megaphone or a loud speaker, or

(*b*) shout, or otherwise act in a disorderly manner, within or at the entrance of the polling station or in any public or private place in the neighbourhood thereof,

so as to cause annoyance to any person visiting the polling station for the poll, or so as to interfere with the work of the officers and other persons on duty at the polling station.

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[1] *See* now the Bombay Local Boards Act, 1923 (Bom. 6 of 1923).

[2] Sections 22B to 22J were inserted by Bom. 35 of 1954, s. 7.

(*2*) Any person who contravenes, or wilfully aids or abets the contravention of the provisions of sub-section (*1*) shall, on conviction, be punished with fine which may extend to two hundred and fifty rupees.

(*3*) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under this section, he may direct any police officer to arrest such person, and thereupon the police officer shall arrest him.

(*4*) Any police officer may take such steps and use such force, as may be reasonably necessary for preventing any contravention of the provisions of sub-section (*1*) and may seize any apparatus used for such centravention.

Penalty for misconduct at polling stations.

22D. (*1*) Any person who during the hours fixed for the poll at any polling station misconducts himself or fails to obey the lawful directions of the presiding officer may be removed from the polling station by the presiding officer or by any police officer on duty or by any person authorised in this behalf by such presiding officer.

(*2*) The powers conferred by sub-section (*1*) shall not be exercised so as to prevent any voter who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.

(*3*) If any person who has been so removed from a polling station re-enters the polling station without the permission of the presiding officer, he shall, on conviction be punished with fine which may extend to two hundred and fifty rupees.

(*4*) An offence punishable under sub-section (*3*) shall be cognizable.

Maintenance of secrecy of voting.

22E. (*1*) Every officer, clerk, agent or other person who performs any duty in connection with the recording or counting of votes at an election under this Act, shall maintain and aid in maintaining the secrecy of the voting and shall not (except for some purpose authorised by or under any law) communicate to any person any information calculated to voilate such secrecy.

(*2*) Any person who contravenes the provisions of sub-section (*1*) shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine or with both.

Officers, etc., at elections not to act for candidates or to influence voting.

22F. (*1*) No person who is a Returning Officer or a presiding or polling officer at an election under this Act or an officer or clerk appointed by the Returning officer or the presiding officer to perform any duty in connection with an election under this Act shall, in the conduct or the management of the election, do any act (other than the giving of vote) for the furtherance of the prospects of the election of a candidate.

(*2*) No such person as aforesaid and no member of a police force shall endeavour—

(*a*) to persuade any person to give his vote at an election, or

(*b*) to dissuade any person from giving his vote at an election, or

(*c*) to influence the voting of any person at an election in any manner.

(*3*) Any person who contravenes the provisions of sub-section (*1*) or sub-section (*2*) shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine or with both.

Breaches of official duty in connection with elections.

22G. (*1*) If any person to whom this section applies is without reasonable cause guilty of any act or omission in breach of his official duty, he shall, on conviction, be punished with fine which may extend to five hundred rupees.

(*2*) No suit or other legal proceedings shall lie against any such person for damages in respect of any such act or omission as aforesaid.

(*3*) The persons to whom this section applies are the Returning Officers, presiding officers, polling officers and any other person appointed to perform any duty in connection with the preparation of a list of voters, the receipt of nominations or withdrawal of candidatures or the recording or counting of votes at an election under this Act; and the expression "official duty" shall for the purposes of this section be construed accordingly, but shall not include duties imposed otherwise than by or under this Act.

Removal of ballot papers from polling stations to be an offence.

22H. (*1*) Any person, who at any election under this Act fraudulently takes, or attempts to take, a ballot paper out of a polling station, or wilfully aids or abets the doing of any such act, shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine which may extend to five hundred rupees or with both.

(*2*) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under sub-section (*1*), such officer may, before such person leaves the polling station, arrest or direct a police officer to arrest such person and may search such person or cause him to be searched by a police officer :

Provided that when it is necessary to cause a woman to be searched, the search shall be made by another woman with strict regard to decency.

(*3*) Any ballot paper found upon the person arrested on search shall be made over for safe custody to a police officer by the presiding officer, or when the search is made by a police officer, shall b e kept by such officer in safe custody.

(*4*) An offence punishable under sub-section (*1*) shall be cognizable.

Other offences and penalties therefor.

22I. (*1*) A person shall be guilty of an offence if at any election under this Act he—

(*a*) fraudulently defaces or fraudulently destroys any nomination paper ; or

(*b*) fraudulently defaces, destroys or removes any list, notice or other document affixed by or under the authority of a Returning Officer ; or

(*c*) fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper ; or

(*d*) without due authority supplies any ballot paper to any person ; or

(*e*) fraudulently puts into any ballot box anything other than the ballot paper which he is authorised by law to put in ; or

(*f*) without due authority destroys, takes, opens or otherwise interferes with any ballot box or ballot papers then in use for the purposes of the election ; or

(*g*) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts or wilfully aids or abets the doing of any such acts.

(*2*) Any person guilty of an offence under this section, shall,—

(*a*) if he is a Returning Officer or a presiding officer at a polling station or any other officer or clerk employed on official duty in connection with the election, on conviction be punished with imprisonment for a term which may extend to two years or with fine or with both ;

(*b*) if he is any other person, on conviction, be punished with imprisonm e nt fo a term which may extend to six months or with fine or with both.

(*3*) For the purposes of this section, a person shall be deemed to be on official duty if his duty is to take part in the conduct of an election under this Act or part of such election including the counting of votes or to be responsible after such election for the used ballot papers and other documents in connection with such election; but the expression "official duty" shall not include any duty imposed otherwise than by or under this Act.

(*4*) An offence punishable under clause (*b*) of sub-section (*2*) shall be cognizable.

Prosecution regarding certain offences.

22J. No Court shall take cognizance of any offence punishable under section 22F or under section 22G or under clause (*a*) of sub-section (*2*) of section 22I, unless there is a complaint made by an order of, or under authority from, the Collector.]

(*5*) *President and Vice-Presidents.*

Selection of president.

23. (*1*) Every Municipality shall be presided over by a president who shall be selected from among the councillors.

President how appointed or when to be elected.

(*2*) Every president shall be either—

(*a*) appointed by the [1][[2]State] Government] by name ; or

(*b*) an *ex-officio* president, that is to say, a person executing the functions of any office which the [1][[2]State] Government] from time to time notifies in this behalf ; or

(*c*) if the [1][[2]State] Government] so directs, elected by the Municipality.

Election of vice-president subject in certain cases to confirmation.

(*3*) There shall be a vice-president for every Municipality elected by the councillors from among their number, but if the president is appointed by the [1][[2]State] Government] or is president *ex-officio*, the result of the election shall, if, the [1][[2]State] Government] by general or special order from time to time so directs be subject to the approval of the [1][[2]State] Government], or of the Commissioner.

Effect of notification of *ex-officio* president.

(*4*) When an office has been notified under clause (*b*) of sub-section (*2*), the person from time to time executing the functions of that office shall be and shall continue to be president, unless and until such notification is altered or rescinded by the [1][[2]State] Government].

Consequences of absence of president or vice-president without leave.

(*5*) Except in the case of a salaried [3][servant of the [4][Government] who is either an appointed or an *ex-officio* president, every president, who for a period exceeding three months, and every vice-president who for a period exceeding fifteen days, shall absent himself from the municipal district in such manner as to be unable to perform his duties as such president or vice-president, shall cease to be president or vice-president unless leave so to absent himself has been granted—

(*a*) by the [5][Commissioner], in the case of a president appointed under clause (*a*) of sub-section (*2*),

(*b*) by the Municipality, in the case of an elected president or of a vice-president :

Provided that such leave to a vice-president shall be subject to the approval

(*i*) of the [1][[2]State] Government], in the case of a vice-president elected subject to the approval of the [1][[2]State] Government], or

(*ii*) of the Commissioner, in the case of a vice-president elected subject to the approval of the Commissioner.

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] The words "servant of the Crown" were substituted for the words "servant of Government", by the Adaptation of the Indian Laws Order in Council.

[4] This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.

[5] This word was substituted for the words "Governor in Council" by Sch. I of the Bombay Decentralization Act, 1915 (Bom. 3 of 1915).

(*6*) Leave under the last preceding sub-section shall not be granted for a period exceeding six months, and whenever leave is granted to a vice-president under that sub-section a councillor shall be elected, subject to the conditions to which the election of the vice-president so absenting himself was subject, to perform all the duties and exercise all the powers of a vice-president during the period for which such leave is granted. Limit to grant of leave, an arrangements pending absence of vice-president.

[1][(*7*) The term of office of every president and of every vice-president shall cease on the expiry of his term of office as councillor. Every president who is elected by the municipality and every vice-president shall be removable from his office as such president or vice-president by the municipality by a resolution passed to that effect, provided that three-fourths of the whole number of the councillors of the municipality vote in favour of such resolution and provided further that before such resolution is passed the president or vice-president is given a reasonable opportunity of showing cause why such a resolution should not be passed. Every president and every vice-president shall be removable from his office as such president or vice-president by the [2][State] Government for misconduct, or neglect of, or incapacity to perform, his duty and a president or vice-president so removed shall not be eligible for re-election during the remainder of the term of office of the municipality;]

[3](*7A*) On the expiry of the term of office of a municipality the president and vice-president shall contine to carry on the current administrative duties of their offices until such time as a new president and vice-president shall have been appointed or elected and shall have taken over charge of their duties : President and vice-president to continue to carry on certain duties until their successors take over charge.

[4]* * * *

[5](*8*) In the case of a municipality the president of which is elected under clause (*c*) of sub-section (*2*), when a new municipality is constituted after a general election or otherwise, the Collector, or such other officer as the Collector may by order in writing authorise in this behalf, shall call a meeting for the election of a new president and vice-president. Such meeting shall be called within twenty-five days from the date on which the names of the councillors of the new municipality are published in the *Official Gazette* under section 20, but shall not be held on a date prior to the date on which the term of office of the retiring councillors prescribed or extended, as the case may be, under sub-section (*1*) of section 17 expires, or which is fixed for the dissolution of the municipality under sub-section (*2*) of section 179, or on which the municipality is re-established under sub-section (*5*) of section 179 after its supersession, as the case may be.

[6][(*9*) The meeting called under sub-section (*8*) shall be presided over by the Collector or such officer as the Collector may by order in writing appoint in this behalf. The Collector or such officer shall, when presiding over such meeting, have the same powers as the president of a municipality when presiding over a meeting of the municipality has, but shall not have the right to vote :

Provided that notwithstanding anything contained in section 26, the Collector or the officer presiding over such meeting may, for reasons which in his opinion are sufficient, refuse to adjourn such meeting.

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[1] This sub-section was substituted for the original sub-section (*7*) by Bom. 52 of 1949, s. 6 (*1*).
[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[3] Sub-section (*7A*) was inserted by Bom. 26 of 1930, s. 3 (*a*).
[4] The proviso was deleted by Bom. 8 of 1939, s. 2 (*b*) (*i*).
[5] Sub-sections (*8*) to (*13*) were substituted for sub-sections (*7B*) to (*10*), *ibid*, s. 2 (*b*) (*ii*).
[6] Sub-sections (*9*) to (*11*) were substituted for the original by Bom. 40 of 1950, s. 2.

(*10*) No business other than the election of the president and the vice-president shall be transacted at such meeting.

(*11*) If in the election of the president or the vice-president there is an equality of votes, the result of the election shall be decided by lot to be drawn in the presence of the Collector or the officer presiding in such manner as he may determine.]

(*12*) In the case of a municipality the president of which is appointed under clause (*a*) or (*b*) of sub-section (*2*) when a new municipality is constituted after a general election or otherwise, the municipality shall elect a vice-president at the first meeting held of such municipality.

(*13*) In the event of the non-acceptance of office, death, resignation or removal from office of a president, other than an *ex-officio* president, or of a vice-president, or of his election being void or of his becoming incapable of acting in such office or having ceased to be a president or a vice-president under sub-section (*5*), or a councillor under sub-section (*2*) of section 15, previous to the expiry of his term of office as president or vice-president the vacancy shall [1][subject to the provisions of sub-section (*7*)]be filled up within twenty-five days from the occurrence of the vacancy by the election or appointment, as the case may be, of [2][a councillor] thereto. The provisions of sub-sections (*8*), (*9*), (*10*) and (*11*) shall be applicable so far as may be, to the calling of a meeting and the procedure to be followed at such meeting for the election of a president under this sub-section.]

[3][(*14*) If any dispute arises regarding the election of a president or vice-president, the Collector shall refer the same to the [4][State] Government for decision and the decision of the [4][State] Government shall be final.]

Penalty for refusal to hand over charge to new president or vice-president.

[5]**[23A1.** (*1*) On the appointment or election of a new president or vice-president, the retiring president or vice-president in whose place the new president or vice-president has been appointed or elected shall hand over charge of his office to such new president or vice-president, as the case may be.

(*2*) If the retiring president or vice-president fails or refuses to hand over charge of his office as required under sub-section (*1*), the State Government or any authority empowered by the State Government in this behalf may, by order in writing, direct the president or the vice-president, as the case may be, to forthwith hand over charge of his office and all papers and property of the municipality, if any, in his possession as such president or vice-president, to the new president or vice-president.

(*3*) If the retiring president or vice-president to whom a direction has been issued under sub-section (*2*) does not comply with such direction, he shall, on conviction, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to Rs. 500 or with both.]

Municipal government vests in the Municipality.

[6]**23A.** (*1*) Except as in this Act otherwise expressly provided the municipal government of a municipal district vests in the Municipality.

(*2*) In a municipal district for which there is a municipal commissioner the executive power for the purpose of carrying out the provisions of this Act vests in the Municipal Commissioner subject, wherever it is in this Act expressly so directed

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[1] The words "subject to the provisions of sub-section (*7*)" were inserted by Bom. 52 of 1949, s. 6 (*2*) (*a*).

[2] The words "a councillor" were substituted for the words "some other councillor" *ibid*, s. 6 (*2*) (*b*).

[3] Sub-section (*14*) was added *ibid*, s. 6 (*3*).

[4] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[5] Section 23A1 was inserted by Bom. 40 of 1950, s. 3.

[6] Section 23A was inserted by Bom. 8 of 1914, s. 7.

to the approval or sanction of the Municipality and subject also to all other restrictions, limitations and conditions imposed by this Act.

Functions of president.

24. (*1*) It shall be the duty of the president of a Municipality to—

(*a*) preside, unless prevented by reasonable cause, at all meetings of the Municipality, and subject to the provisions of the rules for the time being in force under clause (*a*) of section 46 to regulate the conduct of business at such meetings ;

(*b*) watch over the financial and executive administration of the Municipality, and, subject to the rules of the municipality at the time being in force, to perform such executive functions as may be performed by or on behalf of the Municipality over which he presides ;

(*c*) exercise supervision and control over the acts and proceedings of all officers and servants of the Municipality in matters of executive administration and in matters concerning the accounts and records of the Municipality ; and, subject to the rules of the Municipality at the time being in force, to dispose of all questions relating to the service of the said officers and servants, and their pay, privileges and allowances ;

(*d*) furnish to the Collector, or to such other officer as the Collector shall from time to time nominate in this behalf, a copy of every resolution passed at any meeting of the Municipality and any extract from the minutes of the proceedings of the Municipality or of any committee or other document or thing which the Collector from time to time calls for under section 173 :

Functions of Municipal Commissioner.

[1][Provided that in a municipal district for which there is a Municipal Commissioner, the duties and powers of the president under cluases (*b*), (*c*) and (*d*) of this sub-section shall, subject to the provisions of this Act and save where it is otherwise expressly provided in this Act, be performed and exercised by such Municipal Commissioner.]

President in what cases to have a casting vote.

(*2*) When the president of a Municipality is a salaried [2][servant of the Crown], and is either an *ex-officio* president or has been appointed to be president by the [3][Provincial Government], he shall not vote upon any questions which comes before such Municipality for decision unless there is an equality of votes of the other councillors present for and against the proposition under consideration, in which case he shall have a casting vote.

Functions of vice-president.

25. It shall be the duty of the vice-president of a Municipality—

(*a*) in the absence of the president and unless prevented by reasonable cause to preside at the meetings of the Municipality and he shall when so presiding exercise the same authority as is vested in the president under [4][clause (*a*) of] sub-section (*1*) of section 24 ;

(*b*) to exercise such of the powers and perform such of the duties of the president as the president from time to time deputes to him ; and

(*c*) pending the succession, appointment, or election of a president, or during the absence of a president on leave, to exercise the powers and perform the duties of the president.

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[1] This proviso was added by s. 8 of the Bombay District Municipal (Amendment) Act, 1914 (Bom 8 of 1914).

[2] The words "servant of the Crown" were substituted for the words "servant of Government" by the Adaptation of Indian Laws 'Order in Council.

[3] The words "Provincial Government" were substituted for the words "Governor in Council", *ibid.*

[4] These words, letter and brackets were inserted by s. 1 of the Bombay District Municipal (Amendment Act, 1904 (Bom. 4 of 1904).

CHAPTER III.

CONDUCT OF BUSINESS.

(*1*) *Municipal meetings.*

26. The following provisions shall be observed with respect to the meetings of a Municipality :— Provisions in regard to meetings of a Municipality.

(*1*) Except in periodical Municipalities and in Municipalities at hill-stations there shall be held fou r ordinary general meetings in each year for the disposal of general business, on or about the tenth day of the months of January, April, July and October, respectively, and such other ordinary general meetings as the president may find necessary. In Municipalities at hill-stations there shall be held one ordinary general meeting on or about the tenth day of April, and not less than one other ordinary general meeting for the purpose aforesaid, in each year. In every periodical Municipality there shall be such and so many ordinary general meetings, as the president thereof shall from time to time determine. It shall be the duty of the president to fix the dates for all ordinary general meetings. Ordinary general meetings.

(*2*) The president may, whenever he thinks fit, and shall, upon the written request of not less than one-fourth of the councillors, call a special general meeting. Special general meetings.

(*3*) Seven clear days' notice of an ordinary general meeting, and three clear days' notice of a special general meeting, specifying the time and place at which such meeting is to be held and the business to be transacted thereat shall be circulated to the councillors, and posted up at the municipal office or the local kacheri or some other public building in the municipal district. The said notice shall include any motion or proposition which a councillor shall have given written notice not less than ten days previous to the meeting of his intention to bring forward thereat, and, in the case of a special general meeting, any motion or proposition mentioned in any written request made for such meeting. Notice to be given of meetings.

(*4*) Every meeting of a Municipality shall, except for reasons to be specified in the notice convening the meeting, be held in the buildings used as a municipal office by such Municipality. Municipal meetings to be held at municipal office.

(*5*) Every meeting shall, in the absence of both the president and vice-president, be presided over by such one of the councillors present as may be chosen by the meeting to be chairman for the occasion, and such chairman shall exercise thereat the powers vested in the president by clause (*a*) of sub-section (*1*) of section 24. Every meeting how presided over in the absence of the president and the vice-president.

(*6*) Every meeting shall be open to the public unless the presiding authority deems any inquiry or deliberation pending before the Municipality such as should be held in private, and provided that the said authority may at any time cause any person to be removed who interrupts the proceedings. Meeting must ordinarily be open to the public.

(*7*) If in a City Municipality less than one-third, and in any other Municipality less than one-half, of the whole number of councillors be present at a meeting at any time from the beginning to the end thereof, the presiding authority shall adjourn the meeting to such hour on the following or some other future days as he Number of councillors required to form a quorum.

may reasonably fix, and a notice of such adjournment shall be fixed up in the municipal office, and the business which would have been brought before the original meeting, had there been a quorum thereat, shall be brought before the adjourned meeting and may be disposed of at such meeting or at any subsequent adjournment thereof whether there be a quorum present or not.

What business to be transacted at meetings and order of business how to be settled.

(*8*) Except with the permission of the presiding authority, which permission shall not be given in the case of a motion or proposition to modify or cancel any resolution within three months after the passing thereof, no business shall be transacted and no proposition shall be discussed at any general meeting unless it has been mentioned in the notice convening such meeting or, in the case of a special general meeting, in the written request for such meeting. The order in which any business that may be transacted or any proposition that may be discussed at any meeting in accordance with this sub-section shall be brought forward at such meeting, shall be determined by the presiding authority, who in case it is proposed by any member to give priority to any particular item of such business, or to any particular proposition shall put the proposal to the meeting and be guided by the majority of votes given for or against the proposal.

Minutes of proceedings to be kept.

(*9*) In every City Municipality there shall be kept in English, and, if the Municipality so resolve, in the vernacular language also, and in every other Municipality there shall be kept in the vernacular language, and if the Municipality so resolve in English, either in lieu of or in addition to the vernacular, minutes of the names of the councillors and of the [1][Government Officers], if any, present under the provisions of sub-section (*14*), and of the proceedings at each general meeting, in a book to be provided for this purpose, which shall be signed, as soon as practicable, by the presiding authority of such meeting, and shall at all reasonable times be open to inspection by any inhabitant of the municipal district.

All questions to be decided by a majority of votes.

(*10*) All questions shall be decided by a majority of votes of the councillors present and voting, the presiding authority, save as provided in sub-section (*2*) of section 24, having a second or casting vote in all cases of equality of votes. Votes shall be taken and results recorded in such manner as may be prescribed by rules in that behalf for the time being in force under clause (*a*) of section 46.

Adjournments of meetings.

(*11*) Any general meeting may, with the consent of a majority of the councillors present, be adjourned from time to time ; but no business shall be transacted at any adjourned meeting other than that left undisposed of at the meeting from which the adjournment took place.

Modification and cancellation of resolutions.

(*12*) No resolution of a Municipality shall be modified or cancelled within three months after the passing thereof except by a resolution supported by not less than one-half of the whole number of councillors and passed at the general meeting whereof notice shall have been given fulfilling the requirements of sub-section (*3*) and setting forth fully the resolution which it is proposed to modify or cancel at such meeting and the motion or proposition for the modification or cancellation of such resolution.

[1] These words were substituted for the words "servants of the Crown" by the Adaptation of Laws Order, 1950.

(*13*) Except for reasons which the presiding authority deems emergent, no business relating to any work which is being executed for the Municipality by a Government Executive Engineer, or to any education matter, shall be transacted at any meeting of a Municipality unless, at least fifteen days previous to such meeting, a letter has been addressed to the said Executive Engineer or to the Educational Inspector of the district, informing him of the intention to transact such business thereat, and of the motions or propositions to be brought forward concerning such business. Notice of certain business to be given to the Government Executive Engineer or Educational Inspector.

(*14*) (*a*) The members of the Sanitary Board, and the Executive Engineer, Educational Inspector and Deputy Sanitary Commissioner of a district, and the Civil Surgeon in a district when charged with any of the duties of a health officer therein, if not members of a Municipality within the district, shall have the right of being present at any meeting of such Municipality, and, with the consent of the Municipality, each of them may take part at such meeting in the discussion or consideration of any question, on which, in virtue of the duties of his office, he considers his opinion or the information which he can supply will be useful to such Municipality : Certain servants of the Crown may attend meetings of Municipalities.

Provided that the said officers shall not, unless they are members of the Municipality, be entitled to vote upon any such question.

(*b*) If it shall appear to a Municipality that the presence of the Executive Engineer, Educational Inspector, Deputy Sanitary Commissioner or Civil Surgeon of or in the district, is desirable for the purpose aforesaid at any future meeting of such Municipality, it shall be competent to such Municipality, by letter addressed to such officer not less than fifteen days previous to the intended meeting, to require his presence thereat ; and the said officer unless prevented by sickness, or other reasonable cause, shall be bound to attend such meeting : Municipalities may require the presence of the said servants of the Crown at their meetings.

Provided that such officer on receipt of such letter may, if unable to be present himself, instruct a Deputy or Assistant or other competent subordinate as to his views, and may send him to the meeting as his representative, instead of appearing thereat in person.

[1][**26A.** A Municipal Commissioner shall have the same right of being present at a meeting of the Municipality and of taking part in the discussions thereat as a councillor and with the consent of a majority of the councillors present, ascertained by a show of hands, without discussion, may at any time make a statement or explanation of facts, but he shall not be at liberty to vote upon, or to make any proposition at such meeting.] Right of Municipal Commissioner to be present and to speak at municipal meetings.

(*2*) *Committees.*

27. (*1*) In every Municipality there shall be a committee called the managing committee, consisting of such number of councillors not exceeding nine or less than four, as may have been elected for a period not exceeding one year, in accordance with rules under clause (*a*) of section 46 : Managing committees.

Provided that in any municipal district where there is a Chamber of Commerce, such Chamber shall, if the [2][Provincial Government] so directs be entitled to elect one councillor to be a member of the managing committee.

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[1] Section 26A was inserted by s. 9 of the Bombay District Municipal Amendment Act, 1914 (Bom. S of 1914).

[2] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

Powers of managing committees.

(*2*) The managing committee shall, subject

(*i*) to any limitations prescribed by the Municipality specially in this behalf and generally by rules made under clause (*a*) of section 46, and

(*ii*) to the provisions of Chapter XIII [1][and Chapter XIIIA],

exercise all the powers of the Municipality :

Provided that no managing committee shall exercise—

(*a*) any powers in connection with any school or educational institution in respect of which a committee is appointed under section 28, or

(*b*) any powers with which any committee appointed under section 29 is vested,

[2][(*c*) any powers of the Pilgrim Committee appointed under section 27A.]

Pilgrim Committee.

[3][**27A.** (*1*) In every municipality notified by [4][the Provincial Government] in this behalf there shall be a committee called the Pilgrim Committee consisting [5][of four councillors of whom one shall be the President of the Municipality and the other three shall be elected in accordance with rules made under clause (*a*) of section 46 and of two persons appointed by the Provincial Government, both of whom may be salaried servants of the Crown.]

(*2*) The members of the Pilgrim Committee shall hold office for the term of office of the councillors and thereafter up to the date on which a new Pilgrim Committee is constituted in accordance with the provisions of this section. In the case of supersession of the municipality or of the Pilgrim Committee, a new Pilgrim Committee shall be constituted by the Commissioner. Such Committee shall consist of six persons nominated by the Commissioner and shall continue until the municipality is re-established, and a new Pilgrim Committee is constituted in accordance with the provisions of this section, or, in case of supersession of the Pilgrim Committee, until the Pilgrim Committee is re-established.

(*3*) The Pilgrim Committee shall manage and administer the pilgrim fund established under proviso (*c*) to section 51 and shall exercise the powers and perform the duties of the municipality in respect of the said fund, subject to such limitations and restrictions as may be prescribed by the municipality by rules made in this behalf under clause (*aa*) of section 46.

(*4*) All the provisions of this Act relating to the duties, powers, liabilities, disqualifications and disabilities of councillors shall be applicable, so far as may be, to the members nominated on the Pilgrim Committee.

(*5*) In the event of the death, resignation, disqualification, disability or removal of a nominated member previous to the expiry of his term of office, the vacancy shall be filled up by the appointment of a person thereto who shall hold office so long only as the person in whose place he is appointed would have held it if the vacancy had not occurred :

(*6*) Section 36 shall not apply to the Pilgrim Committee ; provided that the municipality shall have power, at any time, to call for any extract from any proceedings of the Pilgrim Committee, and for any return, statement of account or

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[1] These words, figures and letter were inserted by s. 10 of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

[2] This clause was added by Bom. 4 of 1930, s. 2 (*i*).

[3] Section 27A was inserted, *ibid.*, s. 2 (*ii*).

[4] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[5] This portion was substituted for the original by Bom. 9 of 1938, s. 4.

report concerning or connected with any matter with which the Pilgrim Committee deals and every such requisition shall, without unreasonable delay, be complied with by the Pilgrim Committee.

(*7*) The provisions of sections 170, 171 and 172 shall, so far as may be, apply to the Pilgrim Fund Account and the Pilgrim Committee shall, with respect to the preparation and submission to the municipality of its annual budget, follow the following procedure, namely :—

"The Pilgrim Committee shall in sufficient time submit its annual budget and all alterations therein to the municipality for consideration, and, if the municipality agree to it, for its incorporation in the general municipal budget. If the municipality do not agree to the budget as framed by the Pilgrim Committee, they shall return it to the Pilgrim Committee, for reconsideration, either in whole or in part, together with any alterations which they may recommend, and if the Pilgrim Committee agrees to these alterations, the budget so altered shall be incorporated in the general municipal budget. If the municipality and the Pilgrim Committee fail to reach an agreement, the budget with a statement of the points in dispute shall be referred by the municipality to the Commissioner, whose decision on such points shall be final."

(*8*) The provisions of sections 173, 174, 175, 178 and 179 shall apply to a Pilgrim Committee, and in their application to a Pilgrim Committee the said sections shall be construed, so far as may be, as if for the word 'municipality' occurring in the said sections the words 'Pilgrim Committee' were substituted, and as if the words "other than a city municipality in such taluka" occurring in sub-section (*2*) of section 173 were omitted.]

School committees.

28. The Municipality may appoint, subject to such limitations as are prescribed by the rules for the time being in force under section 46 and subject also to the proviso contained in [1][section 58], a committee consisting of such councillors as they think fit for managing all or any primary or other schools vested in or maintained by the Municipality or for conducting the business of the Municipality in respect of any educational institutions aided by the Municipality.

Other executive committees.

29. Subject to the limitations prescribed by the rules aforesaid, the Municipality may appoint, for a period not exceeding one year, any such committee or such or so many committees consisting of such councillors as they think fit for any purpose or respectively for any of the purposes, other than, those specified in section 28, for which a managing committee may, under section 27, exercise the powers of a Municipality, and may invest each committee so appointed with such of the said powers as may be necessary or expedient for the fulfilment of the purpose for which it is appointed [2][not being, where a Pilgrim Committee is appointed, powers or duties referred to in section 27A].

Consultative committees.

30. The Municipality may from time to time appoint such or so many other committees consisting of such councillors as they think fit, and may refer to such committees for inquiry and report, or for opinion, such special sub ects relating to the purposes of this Act as the Municipality shall think fit, and may at any time discontinue, or alter the constitution of, any such committee. The Municipality may direct that the report of any such committee shall be made to the managing committee, instead of to the Municipality.

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[1] This word and figures were substituted for "section 59" by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. 3 of 1902).

[2] These words, figures and letter were inserted by Bom. 4 of 1930, s. 2 (*iii*).

When persons other than councillors may serve on committees.

31. Notwithstanding anything contained in this Act, it shall be lawful for the Municipality from time to time, by a resolution supported by not less than one-half of the whole number of councillors, to appoint, as members of any committee under section 28, 29 or 30, any pesons of either sex, who are not councillors, but who may in the opinion of such Municipality possess special qualifications for serving on such committee [1][or who represent any authority or interest]: provided that the number of persons so appointed on any committee shall not exceed one-third of the total number of the members of such committee.

Duties, etc., of such persons.

All the provisions of this Act relating to the duties, powers, liabilities, disqualifications and disabilities of councillors shall, [2]* * * * * * * be applicable so far as may be to such persons.

Casual vacancies—re-eligibility.

32. A vacancy occurring in a managing committee shall, as soon as possible, and a vacancy occurring in any other committee may be filled up by the election of a member from among the general body of councillors subject to the same provisions as those under which the member whose place is to be filled up, was elected. A councillor shall be eligible at any time for re-election as a member of any such committee notwithstanding that he has previously been a member of that committee.

When Chairman to be *ex-officio*.

33. (*1*) The president or vice-president, if appointed a member of any committee, shall be *ex-officio* chairman thereof.

[3]* * * * *

When no *ex-officio* chairman, Municipality may appoint chairman.

(*2*) The Municipality may appoint a chairman for every committee of which there is no *ex-officio* chairman.

When *ex-officio* or appointed chairman does not attend meeting, committee may appoint chairman of meeting.

(*3*) Every committee, of which there is an *ex-officio* chairman or a chairman appointed by the Municipality, shall, at each meeting which such chairman does not attend as chairman, appoint from its members a chairman for such meeting.

If there is no chairman *ex-officio* or appointed by the Municipality, committee may appoint chairman.

(*4*) Every committee, of which there is no *ex-officio* chairman or chairman appointed by the Municipality, shall appoint from time to time its own chairman from among its own members.

Procedure at meetings.

34. (*1*) The provisions of sub-sections (*4*), (*9*), (*10*) and (*14*) of section 26 shall be complied with in all proceedings of committees as if meetings of committees were included in all references to meetings of a Municipality contained in those provisions, and as if for the word "Municipality", where it occurs in tho proviso to clause (*a*) of sub-section (*14*) of section 26, there were substituted the word "committee":

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[1] These words were inserted by Bom. 26 of 1953, s. 4.

[2] The words "save as regards the disqualification on the ground of sex," were repealed by Bom. 4 of 1924, s. 4.

[3] The proviso which was added by Bom. 4 of 1930, s. 2 (iv), was omitted by Bom. 9 of 1938, s. 5.

[1][Provided that, notwithstanding anything to the contrary contained in sub-section (*9*) of section 26, committees may record their proceedings either in English or in the vernacular language, as they may think fit.]

(*2*) Committees may meet and adjourn as they think proper, but the chairman of the committee may, whenever he thinks fit, and shall, upon the written request of the president of the Municipality or of not less than two members of a committee, call a special meeting of such committee. Committees may meet when they think proper.

(*3*) No business shall be transacted at any committee meeting unless more than one-half of the members of the committee be present thereat. Number of members required to form a quorum at committee meetings.

35. (*1*) Notwithstanding anything contained in the preceding section the chairman of the committee, whenever it appears to him unnecessary to convene a meeting, may, instead of so doing, circulate a written proposition of his own, or of any other member of the committee, or of any executive officer of the Municipality, for the observations and votes of the members of the committee. Procedure by circular.

(*2*) Previous to circulating any such proposition as aforesaid, the chairman may, if he thinks fit, and, if the business to which it relates is of the nature described in sub-section (*13*) of section 26, shall obtain thereupon the remarks, if any, which any [2][Government officer], not a councillor, whose presence the Municipality would be entitled to require under the provisions of clause (*b*) of sub-section (*14*) of section 26, desires to record. Propositions when to be sent to servants of the [3][Government] for remarks.

(*3*) The decision on any propositions so circulated shall be in accordance with the majority of votes of the members of the committee who vote upon it, unless a special meeting is convened to consider the said proposition. Decisions how to be taken on propositions circulated; and how to be recorded.

(*4*) Every decision arrived at by the committee under this section shall be recorded in the minute-book kept under sub-section (*9*) of section 26.

(*5*) Notwithstanding anything in this Act contained, the [4][Commissioner] may by notification authorize the adoption by any Municipality specified in such notification not being a City Municipality, of the procedure prescribed by this section for the disposal of any business, whenever the president of such Municipality may deem it unnecessary to convene a general meeting for the purpose of such business. Procedure by circular when applicable to other municipal business.

36. (*1*) Every committee shall conform to any instructions that may from time to time be given to them by the Municipality; the Municipality may, at any time, call for any extract from any proceedings of any committee, and for any return, statement or account or report concerning or connected with any matter with which any committee has been authorized or directed to deal, and every such requisition shall, without unreasonable delay, be complied with by the committee so called upon. Subordination of committees to instructions of Municipality and compliance with requisitions of Municipality.

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[1] This proviso was added by s. 11 of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

[2] These words were substituted for the words "servant of the Crown" by the Adaptation of Laws Order, 1950.

[3] This word was substituted for the word "Crown", *ibid.*

[4] This word was substituted for the words "Governor in Council" by Sch. 1 of the Bombay Decentralisation Act, 1915 (Bom. 3 of 1915).

Order subject to revision and appeal.

(*2*) Every order passed by a managing committee or by a committee appointed under section 28 or 29, other than orders under sub-section (*3*) of section 65, shall be subject to such revision, and open to such appeal as may be required or allowed in respect thereof by any rules of the Municipality for the time being in force under section 46.

(*3*) *Delegations of powers to individuals.*

Powers, duties and functions may be delegated to officers whose expenses may be paid.

37. Any powers or duties or executive functions which may be exercised or performed by or on behalf of the Municipality may be delegated in accordance with rules to be made by the Municipality in this behalf, to the president or to the vice-president, or to the chairman of the managing, school or other committee, or to one or more stipendiary or honorary officers, but without prejudice to any powers that may have been conferred on a chief officer in a City Municipality under Chapter XIII or on any committee by or under section 27, [1][27A], 28 or 29 ; and each person, who exercises any power or performs any duty or function so delegated, may be paid all expenses necessarily incurred by him thereir :

[2][Provided that in a municipal district for which there is a Municipal Commissioner the powers or duties or executive functions under this Act or under any rule or by-law made hereunder conferred or imposed upon or vested in the Municipal Commissioner shall not be delegated save as provided in section 186-M.]

(*4*) *Validity of proceedings.*

Acts and proceedings of Municipality and committees not vitiated by disqualifications, etc., of members thereof.

38. (*1*) No disqualification of, or defect in the election or appointment of, any person acting as councillor, or as the president or presiding authority of a general meeting or as chairman of a committee appointed under this Act, shall be deemed to vitiate any act or proceeding of the Municipality or of any such committee, as the case may be, in which such person has taken part, whenever the majority of persons, parties to such act or proceeding, were entitled to act.

Proceedings of meetings to be good and valid, unil the contrary is proved.

(*2*) Until the contrary is proved every meeting of the municipality, or of a committee appointed under this Act, in respect of the proceedings whereof a minute has been made and signed in accordance with this Act, shall be deemed to have been duly convened and held, and all the members of the meeting shall be deemed to have been duly qualified ; and where the proceedings are the proceedings of a committee, such committee shall be deemed to have been duly constituted and to have had the power to deal with the matters referred to in the minute.

Vacancy not to affect Municipality' s proceedings.

(*3*) During any vacancy in a Municipality or committee the continuing councillors or members may act as if no vacancy had occurred.

(*5*) *Joint transactions with other bodies.*

Joint committees of two or more Municipalities or other local bodies.

39. A Municipality may from time to time—

(*a*) join with any other Municipality or with any local board, cantonment authority, sanitary board, [3][sanitary committee, panchayat] or committee appointed for an area notified under Chapter XIV, or with more than one such Municipality, board, [4][authority, panchayat or committee]—

(*i*) in appointing out of their respective bodies a joint committee for any purpose in which they are jointly interested, and in appointing a chairman of such committee ; and

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[1] The figures and letter " 27A " were inserted by Bom. 4 of 1930, s. 2 (*v*).

[2] This proviso was added by s. 12 of the Bombay District Municipal Amendment Act, 1914 (Bom. 3 of 1914).

[3] These words were substituted for the words " sanitary committee " by Bom. 52 of 1949, s. 7 (*1*) (*a*).

[4] These words were substituted for the words " authority or committee ", *ibid*, s. 7 (*1*) (*b*).

(*ii*) in delegating to any such committee power to frame terms binding on each such body as to the construction and future maintenance of any joint work, and any power which might be exercised by either or any of such bodies ; and

(*iii*) in framing and modifying rules for regulating the proceedings of any such committee relating to the purpose for which the committee is appointed ; and

(*b*) enter, subject to the sanction of the [1][[2]State] Government] into an agreement with a Municipality, cantonment authority, [3][local board, panchayat] or committee appointed for an area notified as aforesaid [4][or with a combination of any such bodies], regarding the levy of octroi duty whereby the octroi duties respectively leviable by the bodies so contracting may be levied together instead of separately within the limits of the area [5]* * * * * subject to the control of the said bodies. Agreement for joint levy of octroi.

[6][*Explanation.*—For the purpose of this clause, octroi duty includes a terminal tax.]

[7][Where a municipality has requested the concurrence of any other local authority under the provisions of the preceding paragraph in respect of any matter and such other local authority has refused to concur, the Commissioner may pass such orders as he may deem fit, requiring the concurrence of such other local authority, not being a cantonment authority, in the matter aforesaid ; and such other local authority shall comply with such orders.]

If any difference of opinion arises between local bodies acting under this section, the decision thereupon of the [1][[2]State] Government], or of such officer as [8][it] appoints in this behalf, shall be final :

[9][Provided that where one of the local bodies concerned is a cantonment authority, any such decision shall be subject to the concurrence of the Central Government.]

(6) Contracts.

40. (*1*) Every Municipality shall be competent, subject to the [10][restriction] contained in sub-section (*2*), to lease, sell or otherwise transfer any moveable or immovable property which may, for the purposes of this Act, have become vested in or been acquired by them, and so far as is not inconsistent with the provisions and purposes of this Act, to enter into and perform all such contracts as they may consider necessary or expedient in order to carry into effect the said provisions and purposes. Competency of Municipality to lease, sell and contract.

(*2*) In the case [11][of every lease or sale of land under sub-section (*1*) of section 90 and] of every lease of immovable property for a term exceeding seven years, and of every sale or other transfer, of any such property the previous sanction of the Commissioner is required. Subject in certain cases to sanction of Commissioner.

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] The words "local board, panchayat" were substituted for the words "local board" by Bom. 52 of 1949, s. 7 (*ii*).

[4] These words were inserted, Bom. 14 of 1934, s. 2 (*1*) (*i*) (*b*).

[5] The words "comprising the districts" were deleted, *ibid*, s. 2 (*1*) (*i*) (*c*).

[6] This Explanation was inserted by s. 2 of the Bombay District Municipal Amendment Act, 1920 (Bom. 3 of 1920).

[7] This paragraph was inserted by Bom. 14 of 1934, s. 2 (*1*) (*ii*).

[8] The word "it" was substituted for the word "he" by the Adaptation of Indian Laws Order in Council.

[9] This proviso was inserted, *ibid*.

[10] This word was substituted for the word "restrictions" by s. 2 of the Bombay District Municipal Act, 1901 (Amendment) Act, 1902 (Bom. 3 of 1902).

[11] These words, figures and brackets were inserted by Bom. 26 of 1930, s. 4.

Sanction by resolution at general meeting requisite to validity of certain contracts.

(*3*) In the case—

(*a*) of a lease for a period exceeding one year, or of a sale or other transfer, or contract for the purchase of any immovable property,

(*b*) of every contract which will involve expenditure, not covered by a budget grant,

(*c*) of every contract the performance of which cannot be completed within the official year current at the date of the contract,

the sanction of the Municipality by a resolution passed at a general meeting is required.

Sanction of Municipality when requisite in other cases.

(*4*) In the case of a contract for the purchase of moveable property, or for the sale of any moveable property belonging to a Municipality, if the expenditure which the purchase would involve, or the value of the property to be sold as estimated in the municipal accounts, exceeds [1][Rs. 1,000], the sanction of the Municipality is required.

Sanction by committees and individuals empowered.

(*5*) In the case of every contract not otherwise provided for in the preceding sub-sections of this section the sanction of the managing committee, or of such other committee, or of such individual as under the provisions of this Act or of the rules for the time being in force thereunder, is empowered on this behalf, is required.

Mode of executing contracts.

(*6*) Every contract entered into, by or on behalf of a Municipality other than a contract to which sub-section (*5*) applies, shall be in writing, and shall be signed by the president or vice-president and two other councillors, and shall be sealed with the common seal of the Municipality. Every contract to which sub-section (*5*) applies shall be executed by the chairman of the managing committee, or by the chairman of such other committee, or by such other individual, as is empowered in that behalf in such manner and form as, according to the law for the time being in force, would bind such chairman or individual if such contract were executed by him on his own behalf.

Invalidity of contracts unless requirements of this section are fulfilled.

(*7*) No contract shall be binding on a Municipality in any case referred to in this section, unless all such requirements as are specified in sub-section (*2*), (*3*), (*4*) or (*5*) in respect of such case are fulfilled, and unless it is executed in accordance with the provisions of sub-section (*6*) applicable thereto.

This section to be subject to the provisions of Chapter XIIIA.

[2](*8*) The provisions of this section shall be subject to the provisions of Chapter XIIIA.]

(*7*) *Compulsory acquisition of land.*

Recourse to the Land Acquisition Act, 1894.

41. When there is any hindrance to the permanent or temporary acquisition, upon payment, of any land or building required for the purposes of this Act, the

[1] These letters and figures were substituted for the portion beginning with the brackets and letter "(*a*)" and ending with the letters and figures "Rs. 250" by Bom. 26 of 1953, s. 5.

[2] Sub-section (*8*) was added by s. 13 of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

[1][Provincial Government] may, after obtaining possession of the same for [2][the Provincial Government] under [3]Land Acquisition Act, 1894, or other existing law, vest such land or building in the Municipality on their paying the compensation awarded, and on their repaying to [2][the Provincial Government] all costs incurred by [2][the Provincial Government] on account of the acquisition.

I of 1894.

(8) Liabilities of councillors, officers and servants.

42. Every councillor shall be personally liable for the misapplication of any fund to which he shall have been a party, or which shall have happened through or been facilitated by, gross neglect of his duty as a councillor, and may be sued for recovery of the moneys so misapplied as if such moneys had been the property [4][of the Crown];

Councillors to be held responsible for misapplied funds.

Provided that no councillor shall be personally liable in respect of any contract or agreement made, or for any expense incurred, by, or on behalf of, the Municipality; the funds at the disposal of each Municipality shall be liable for, and be charged with, all costs in respect of any such contract or agreement and all such expenses.

Municipal funds ordinarily liable for all costs and expenses incurred.

43. (*1*) Any person who has, directly or indirectly, by himself or his partner, any share or interest in any contract with, by or on behalf of a Municipality, or in any employment with, under, by or on behalf of a Municipality, other than as a municipal officer or servant, shall be disqualified for being an officer or servant of such Municipality.

Officer or servant of any Municipality not to be interested in any contract with such Municipality.

(*2*) Any municipal officer or servant who shall acquire, directly or indirectly, by himself or his partner, any share or interest in any such contract or employment as aforesaid, shall cease to be a municipal officer or servant and his office shall become vacant.

Effect of acquiring such interest.

(*3*) Nothing in this section shall apply to any such share or interest in any contract or employment with, under, by or on behalf of a Municipality as under clauses (*ii*) and (*iv*) of the proviso to sub-section (*1*) of section 15 it is permissible for a person to have without his being thereby disqualified for being a councillor.

Saving clause.

44. (*a*) Any councillor, who knowingly acquires, directly or indirectly, any share or interest in any contract or employment with, under, by or on behalf of a Municipality of which he is a member, not being a share or interest such as, under section 15, it is permissible for a person to have, without being thereby disqualified for being a councillor, and

Penalty for councillor, officer or servant of a Municipality being interested in any contract, etc., with that Municipality.

(*b*) any municipal officer or servant who knowingly acquires, directly or indirectly, any share or interest in any contract, or, except in so far as concerns his own employment as municipal officer or servant, in any employment with, under, by or on behalf of a Municipality of which he is an officer or servant not being a share or interest such as, under clauses (*ii*) and (*iv*) of the proviso to

[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] The words "the Provincial Government" were substituted for the word "Government", *ibid.*

[3] Central Acts.

[4] The words "of the Crown" were substituted for the words "of Government" by the Adaptation of Indian Laws Order in Council.

sub-section (*1*) of section 15, it is permissible for a person to have without being thereby disqualified for being a councillor,

shall be liable, on conviction before a Criminal Court, to a fine which may extend to five hundred rupees.

Councillors, etc., to be deemed public servants.

[1]**45.** (*1*) Every municipal commissioner, councillor, officer or servant, and every lessee of the levy of any municipal tax, and every servant or other person employed by any such lessee for the levy of any municipal tax shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

(*2*) The word " Government " in the definition of " legal remuneration ", in section 161 of that Code shall, for the purposes of sub-section (*1*) of this section, be deemed to include a municipality.

CHAPTER IV.

RULES AND BY-LAWS.

Municipalities to make rules;

46. Every Municipality shall, as soon as conveniently may be after the constitution thereof, [2][and subject to the provisions of Chapter XIIIA,] make and may from time to time alter or rescind rules, but not so as to render them inconsistent with this Act,

regulating the conduct of business;

(*a*) regulating the conduct of their business and the delegation of any of their powers or duties and, subject to the provisions of [3][sections 27 and 27-A], the appointment and constitution of committees;

[4](*aa*) prescribing the limitations and restrictions subject to which the Pilgrim Committee shall exercise the powers and perform the duties of the municipality in respect of the pilgrim fund;

(*b*) determining

fixing the functions of the president and the establishment;

(*i*) the executive functions to be performed by the president, vice-president, the chairman of any committee, and, subject to the provisions of Chapter XIII, in City Municipalities by the chief officer, [5][and, subject to the provisions of Chapter XIIIA, by the Municipal Commissioner] and the delegation of any of their powers or duties to such persons;

(*ii*) the staff of officers and servants to be employed by the Municipality and the respective designations, duties, salaries, fees and absentee or other allowances of such officers and servants, and the powers and duties delegated to them under section 37;

for general guidance of municipal servants;

(*c*) generally for the guidance of their officers and servants in all matters relating to the municipal administration;

fixing the amount of the security to be furnished;

(*d*) fixing the amount and nature of the security to be furnished by any officer or servant from whom it may be deemed expedient to require security;

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[1] Section 45 was substituted for the original section by Bom. 26 of 1930, s. 5.

[2] These words, figures and letter were inserted by s. 14 (*1*) of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

[3] The words, figures and letter " sections 27 and 27-A " were substituted for the word and figures " section 27 " by Bom. 4 of 1930, s. 2 (*vi*) (*1*).

[4] Clause (*aa*) was inserted, *ibid.*, s. 2(*vi*) (*2*).

[5] These words, figures and letter were inserted by s. 14 (*2*) of the Bombay District Municipal Amend ment Act, 1914 (Bom. 8 of 1914).

(*e*) subject to the provisions of section 184, determining the mode and conditions of appointing, punishing or dismissing any [1]* officer or servant, and delegating to officers designated in the rules the power to appoint, fine, reduce, suspend or dismiss any [1]* officer or servant ; determining mode of appointing, etc., municipal servants ; delegating power to appoint, etc.

(*f*) regulating the grant of leave to officers or servants, and fixing the remuneration to be paid to the persons, if any, appointed to act for them whilst on leave ; granting leave to municipal servants.

(*g*) regulating the period of service of all officers and servants, and determining the conditions under which such officers and servants, or any of them, shall receive pensions, gratuities or compassionate allowances on retirement, [2][or discharge from service] or on their becoming disabled through the execution of their duty, and the amount of such pensions, gratuities or compassionate allowances and prescribing the conditions under which any gratuities or compassionate allowances may be paid to the surviving relatives of any such officers or servants whose death has been caused through the execution of their duty ; fixing pensions, etc. ;

(*h*) authorizing the payment of contributions, at such rates and subject to such conditions as may be prescribed in such rules to any pension or provident fund which may be established by the Municipality or with the approval of the Municipality, by the said officers and servants ; contributing to provident fund ;

(*i*) prescribing, subject to the provisions of Chapter VII, the taxes to be levied in the municipal district for municipal purposes, the grounds on which exemptions are to be recognized, the conditions on which and the extent to which remissions may be granted, and the system on which refunds are to be allowed and paid, in respect of such taxes, and the limits of the charges or payments to be fixed in lieu of any tax under section 71, and the fees to be charged for licences or permissions granted under section 70, and the times at which and the mode in which the same shall be levied or recovered or shall be payable, and prescribing the fees for notices demanding payments due on account of any tax, and for the [3][issue and] execution of warrants of distress, and the rates to be charged for maintaining any livestock distrained, and designating the persons authorized to receive payment of any sums so leviable ; prescribing the taxes, etc., to be levied for municipal purposes ;

(*j*) prescribing the conditions subject to which sums due on account of any tax or of costs in recovering any tax may be written off as irrecoverable, and the conditions subject to which the whole or any part of any fee chargeable for distress may be remitted by the managing committee : for writing off amounts due and remitting fees.

Provided that—

(*a*) no rule made, or alteration or rescission of a rule made under this section shall have effect, unless and until it has been approved, in the case of City Municipalities, by the [4][[5][State] Government], or in other cases by the Commissioner ; Approval required to rules.

[6][Provided that, in the case of City Municipalities, the approval may be given by

[1] The word "such" was repealed by s. 2 of the Bombay District Municipal (Amendment) Act, 1904 (Bom. 4 of 1904).
[2] These words were inserted by Bom. 52 of 1949, s. 8.
[3] The words "issue and" were inserted by Bom. 12 of 1931, s. 2 (*v*) (*a*).
[4] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.
[5] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[6] These words, figures and letter were added by Sch. I of the Bombay Decentralization Act, 1915, (Bom. 3 of 1915).

the Commissioner, instead of by [1][the [2][State] Government], in respect of rules framed under clause (*b*) (*ii*), subject to the condition that any such rules relating to Chief Officers, Health Officers, or Engineers, or to the salaries, fees or absentee or other allowances of such officers, shall require the sanction of [1][the [2][State] Government].

Proviso as to officers transferred from or to the service of the [4][Government]

(*b*) if an officer serving or having served under a Municipality has been or is transferred from or to the service of the [3][[4][Government], or is partly employed by the [3][[4][Government] and partly by a Municipality, the Municipality shall [5][make such contributions to his pension and leave allowances as may be required, by the conditions of his service under the [4][Government], to be made by him or on his behalf.]

Notice required in certain cases of dismissal.

(*c*) the Municipality shall not, unless with the assent of [6][the Government, concerned], dispense with the services of any such officer transferred from the service of [7][the [4][Government] to the service of the Municipality or employed partly by [7][the [4][Government]] and partly by the Municipality, or finally dismiss from the service of the Municipality any officer transferred from the service of the Municipality to the service of [7][the [4][Government], without giving [6][the Government concerned], six months' previous notice.

Discretionary power to make rules.

[8][**46A.** A Municipality may at their discretion, make rules not inconsistent with this Act, determining the conditions under which gratuities or compassionate allowances may be paid to the surviving relatives of their officers and servants or any of them who die during service and the amount of such gratuities or compassionate allowances :

Provided that no rule made or alteration or rescission of a rule made under this section shall have effect unless and until it has been approved, in the case of City Municipalities by the [9][[2][State] Government], or in other cases by the Commissioner.]

Power to suspend, reduce or abolish any existing tax.

[10][**47.** (*1*)] Subject to the requirements of clause (*a*) of the proviso to section 46 every Municipality may, except as otherwise provided in clause (*b*) of the proviso to section 74, at any time for any sufficient reason, suspend, reduce or abolish any existing tax by suspending, altering or rescinding any rule prescribing such tax under the provisions of clause (*i*) and of the first clause of the proviso to section 46.

[11][(*2*) The provisions of Chapter VII relating to the imposition of taxes shall, so far as may be, apply to the suspension, reduction or abolition of any tax and to the suspension, alteration or rescission of any rule prescribing a tax.]

Power to make by-laws ;

48. (*1*) Every Municipality may from time to time with the previous sanction in the case of City Municipalities, of the [12][[2][State] Government] or in other cases

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[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] The word "Crown" was substituted for the word "Government", by the Adaptation of the Indian Laws Order in Council.

[4] This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.

[5] These words were substituted for the words "contribute to his pension and leave allowances to the extent required by the rules in force for the time being, made by the Governor in Council in this behalf", *ibid.*

[6] The words "the Government concerned" were substituted for the word "Government", *ibid.*

[7] The words "the Crown" were substituted for the word "Government", *ibid.*

[8] Section 46A was inserted by Bom. 20 of 1929, s. 2.

[9] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[10] Section 47 was renumbered as sub-section (*1*) of that section by Bom. 35 of 1955, s. 9.

[11] This sub-section was inserted, *ibid.*

[12] The words "Provincial Government" were substituted for the words "Governor in Council", by the Adaptation of ndian Laws Order in Council.

of the Commissioner, make, alter or rescind by-laws, but not so as to render them inconsistent with this Act,

(*a*) for the regulation and inspection of markets and slaughter-houses and all places used by or for animals which are for sale or hire, or the produce of which is sold, and for the proper and cleanly conduct of business therein ; and for fixing the rents and other charges to be levied, for the use of any of them which belong to the Municipality ; — for markets and slaughter-houses, etc. etc. ;

(*b*) prescribing the conditions on or subject to which, and the circumstances in which, and the areas or localities in respect of which, licences may be granted, refused, suspended or withdrawn for the use of any place not belonging to the Municipality, — for licensing, regulating and inspecting certain businesses ;

(*i*) as a slaughter-house,

(*ii*) as a market or shop for the sale of animals intended for human food, or of meat, or of fish, or as a market for the sale of fruit or vegetables,

[1][(*iia*) as a hotel, eating house, tea or coffee shop, restaurant, dining saloon, refreshment room or for a like purpose,]

(*iii*) for any of the purposes mentioned in sub-section (*1*) of section 151, and providing for the inspection and regulation of the conduct of business in any place used as aforesaid, so as to secure cleanliness therein or to minimise any injurious, offensive or dangerous effect arising or likely to arise therefrom ;

[2][*bb*) prescribing the conditions on or subject to which, and the circumstances in which, and the areas or localities in respect of which, licences may be granted, refused, suspended or withdrawn for the use of whistles and trumpets operated by steam or mechanical means in factories or other places for the purpose of summoning or dismissing workmen or persons employed ;] — for licensing the use of steam whistles, etc. ;

(*c*) prohibiting the stalling or herding of horses, camels, cattle, donkeys, sheep or goats, otherwise than in accordance with such regulations prescribed in such by-laws in regard to the number thereof, and the places to be used for the purpose, as may be necessary to prevent danger to the public health ; — regulating the stalling of cattle, etc. ;

[3][(*cc*) prescribing the conditions on which sweetmeats, milk, butter or other milk products may be sold and on which licences may be granted, refused, suspended or withdrawn for carrying on the trade or business of a dealer in, or importer or seller of, sweetmeats, milk, butter or other milk products, or for the use for the purposes of trade, of any place for stabling milch-cattle, for storing or selling milk or for manufacturing, storing or selling butter or other milk products;]

(*d*) (*i*) for the inspection of milch-cattle ; and prescribing and rgulating the construction, dimensions, ventilation, lighting, cleansing, drainage and water-supply of dairies and cattle-sheds in the occupation of persons following the trade of dairy-men or milk-sellers ; — for regulating dairies and cattle-sheds ;

(*ii*) for securing the cleanliness of milk-stores, milk-shops and vessels used by milk-sellers or buttermen for milk or butter ; — milk-stores, etc.;

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[1] Clause (*iia*) was inserted by Bom. 52 of 1949, s. 9 (*i*).
[2] This clause was inserted by s. 15 of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).
[3] Clause (*cc*) was inserted by Bom. 52 of 1949, s. 9 (*ii*).

for inspection of weights and measures ;

[1](*e*) for the inspection of weights and measures under section 143 ;

for defining standard weights and measures ;

[2][(*ee*) for defining the standard weights and measures used within the municipal district ;]

for registration of births, etc. ;

(*f*) for the registration of births, deaths and marriages, [3]* * * * * * * within the municipal district and for enforcing the supply of such information as may be necessary to make such registration [4]* * * effective ;

regulating the disposal of the dead ;

(*g*) regulating the disposal of the dead and the maintenance of all places for the disposal of the dead in good order and in a safe sanitary condition, due regard being had to the religious usages of the community or section of the community entitled to the use of such places for the disposal of the dead ;

for enforcing supply of information as to epidemics ;

(*h*) for enforcing the supply of information as to any cases of dangerous disease, and carrying out the provisions of sections 144 and 145 ;

for enforcing information as to liability to municipal taxation ;

(*i*) for enforcing the supply of such information by inhabitants of the municipal district as may be necessary to ascertain their respective liabilities to any tax imposed therein ;

octroi by laws ;

(*j*) fixing octroi limits and stations ; providing for the exhibition of tables of octroi ; regulating, subject to any general or special orders which the [5][[6]State] Government] may make in this behalf, the system under which refunds are to be made on account thereof when the animals or goods on which the octroi has been paid, or articles manufactured wholly or in part from such animals or goods, are again exported, and the custody or storage of animals or goods declared not to be intended for [7][consumption, use or sale] within the municipal district ; and prescribing a period of limitation after which no claim for refund of octroi shall be entertained, and the minimum amount for which any claim to refund may be made ;

for protecting water ;

(*k*) for conserving and preventing injury to sources and means of water-supply and appliances for the distribution of water, whether within or without the limits of the municipal district ; and regulating all matters and things connected with the supply and use of water and the turning on or turning off and preventing the waste of water, and the construction, maintenance and control of municipal water-works, and of pipes and fittings in connection therewith, whether the property of the Municipality or not ; .

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[1] Clauses (*e*) and (*ee*) shall be deemed to be repealed in those areas only where Part VI of the Bombay Weights and Measures Act, 1932 (Bom. 15 of 1932), has been brought into force, *vide* s. 47 and Second Sch., Part II, of the said Act).

[2] This clause was inserted by s. 3 of the Bombay District Municipal (Amendment) Act, 1904 (Bom. 4 of 1904).

[3] The words " and the taking of a census " were omitted by the Adaptation of Indian Laws Order in Council.

[4] The words " or census " were omitted, *ibid.*

[5] The words "Provincial Government " were substituted for the words " Governor General in Council ", *ibid.*

[6] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[7] These words were substituted for the words " use or consumption " by Bom. 2 of 1955, s. 3, Second Schedule.

[1][(*kk*) for securing an adequate supply of pure water to persons occupying residential premises ;]

(*l*) regulating the use of public bathing and washing places within municipal limits ; — regulating public baths, etc.,

(*m*) regulating sanitation and conservancy and the disposal of carcasses of dead animals ; — for conservancy.

(*n*) regulating the conditions on which permission may be given for the temporary occupation of, or the erection of temporary structures on, public streets or for projections over public streets and regulating the structure and dimensions of plinths, walls, foundations, roofs and chimneys of new buildings for the purpose of securing stability and the prevention of fires, and for purposes of health ; — regulating structures and buildings ;

(*o*) for preventing the erection of buildings without adequate provision being made for the laying out and location of streets ; — for providing for streets ;

(*p*) for ensuring the adequate ventilation of buildings by the provision and maintenance of sufficient open space either internal or external and of doors and windows and other means for securing a free circulation of air ; — for ensuring ventilation ;

[1][(*pp*) for requiring an owner of a building divided into two or more separate tenements to provide adequate means of lighting at night time a staircase, passage or private court of or in any such building or the spaces near or leading to latrines or urinals or washing places therein and of extinguishing such lights ; — for requiring lighting staircases, etc., at night.

(*q*) [3]* * * prescribing the qualifications of surveyors or persons by whom plans required under section 96 are to be prepared, or of plumbers ; for licensing persons to be surveyors or plumbers, and fixing the fees chargeable for such licences ; and for modifying the provisions of, or revoking such licences ; and prohibiting any alterations or repairs or fittings to water or drainage-pipes or house-connections being carried out or made, except by such persons ; — requiring qualified surveyors ; [3]* * *

(*r*) regulating, in any other particular not specifically provided for in this Act, the construction, maintenance and control of drains, sewers, ventilation shafts, receptacles for dung and manure, cesspools, water closets, privies, latrines urinals, and drainage or sewerage works of every description whether the property of the Municipality or not ; — control of drains ;

(*s*) determining the information and plans to be required by the Municipality under sections 91 and 96 ; — requiring information and plans in certain cases ;

(*t*) prohibiting the transit of any vehicles of such form, construction, weight or size or laden with such machinery or other unwieldy objects as may be deemed likely to cause injury to the roadway, or to any construction thereon, or risk or obstruction to other vehicles or to pedestrians along or over any street, except under such conditions as to time, mode of traction of locomotion, use of appliances — for controlling unwieldy traffic, and

[1] Clause (*kk*) was inserted by Bom. 52 of 1949, s. 9 (*iii*).
[2] Clause (*pp*) was inserted by Bom. 53 of 1954, s. 4.
[3] The words " in a City Municipality " and the words " in City Municipalities " in the marginal note were deleted by Bom. 51 of 1949, s. 9 (*iv*).

for protection of the roadway, number of lights and assistants, and other general precautions as may be prescribed, either generally in such by-laws, or in special licences to be granted in each case upon such terms as to time of application and payment of fees therefor as may be prescribed in such by-laws :

Provided that no such by-law relating only to any particular street or portion of a street shall be deemed to be in force, unless and until notices of such prohibition shall have been posted up by the Municipality in conspicuous places at or near both ends of such street or portion of a street ;

[1][(*u*) prescribing the conditions on or subject to which licences may be granted refused, suspended or withdrawn, for the use of hand-carts and hand-barrows, other than those plying for hire in respect of which licences have been granted under the Bombay Public Conveyances Act, 1920, and providing for the seizure and detention of any hand-carts or hand-barrows which have not been duly licensed in pursuance of the by-laws made under this section ; Bom. VII of 1920.

(*v*) prescribing the conditions on or subject to which licences may be granted, refused, suspended or withdrawn for hawking or exposing for sale in any public place or street any article whatsoever whether it be for human consumption or not ;]

regulating municipal administration.

[1][(*w*) generally for the regulation of all matters relating to municipal administration.

Fine may be imposed for infringement of by-laws.

And every Municipality may, with the like sanction, prescribe a fine not exceeding five hundred rupees for the infringement of any such by-law.

[2][(*1a*) Every Municipality may, from time to time, with the previous sanction, in the case of city municipalities, of the Central Government, and in other cases, of the Commissioner, make, alter or rescind by-laws, but not so as to render them inconsistent with this Act, for the taking of a census within the municipal district and for enforcing the supply of such information as may be necessary to make the census effective.]

Publication of drafts of proposed by-laws.

(*2*) Every Municipality shall, before making any by-law under this section, publish in such manner as shall in their opinion be sufficient, for the information of the persons likely to be affected thereby, a draft of the proposed by-law, together with a notice specifying a date on or after which the draft will be taken into consideration, and shall, before making the by-law receive and consider any objection or suggestion with respect to the draft which may be made in writing by any person before the date so specified.

Objections and suggestions to be submitted to Central Government [5][State] Government or Commissioner as the case may be.

(*3*) When any by-law made by a Municipality is submitted to the [3][Central Government], [4][[5][State] Government] or Commissioner for sanction, a copy of the notice published as aforesaid, and of every objection or suggestion so made, shall be submitted for the information of the [3][Central Government], [4][[5][State] Government] or Commissioner along with the said by-law.

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[1] Clauses (*u*) and (*v*) were inserted and the original clause (*u*) was renumbered as cl. (*w*) by Bom. 52 of 1949, s. 9 (*v*).

[2] Sub-section (*1a*) was inserted by the Adaptation of Indian Laws Order in Council.

[3] The words " Central Government " were inserted, *ibid.*

[4] The words " Provincial Government " were substituted for the words " Governor in Council ", *ibid.*

[5] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

49. The rules and by-laws for the time being in force shall be kept open for public inspection at the municipal office at all reasonable times, and printed copies thereof and of this Act in the vernacular language of the district, and in City Municipalities in English as well as in the vernacular, shall be kept on sale at cost price. Rules and by-laws to be printed and sold.

CHAPTER V.

MUNICIPAL PROPERTY AND FUND.

50. (*1*) Every Municipality may acquire and hold property both moveable and immovable, whether within or without the limits of the municipal district. Power to acquire and hold property.

(*2*) All property of the nature hereinafter in this section specified, and not being specially reserved by the [1][[2][State] Government] shall be vested in and belong to the Municipality, and shall, together with all other property, of what nature or kind soever, not being specially reserved by the [1][[2][State] Government], which may become vested in the Municipality, be under their direction, management and control, and shall be held and applied by them as trustees, subject to the provisions and for the purposes of this Act; that is to say— Property vested in the Municipality.

(*a*) all public town-walls, gates, markets, slaughter-houses, manure and night-soil depots, and public buildings of every description;

(*b*) all public streams, tanks, reservoirs, cisterns, wells, springs, aqueducts, conduits, tunnels, pipes, pumps and other water-works, and all bridges, buildings, engines, works, materials and things connected therewith or appertaining thereto, and also any adjacent land (not being private property) appertaining to any public tank or well;

(*c*) all public sewers and drains, and all sewers, drains, tunnels, culverts, gutters and water-courses in, alongside or under any streets, and all works, materials and things appertaining thereto, as also all dust, dirt, dung, ashes, refuse, animal matter, or filth, or rubbish of any kind collected by the Municipality from the streets, houses, privies, sewers, cesspools or elsewhere;

(*d*) all public lamps, lamp-posts, and apparatus connected therewith, or appertaining thereto;

(*e*) all lands transferred to them by the [3][Government] or by gift or otherwise, for local public purposes;

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[1] The words " Provincial Government " were substituted for the words " Governor in Council ", by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[3] This word was substituted for the word " Crown " *ibid.*

(*f*) all public streets, and the pavements, stones and other materials thereof and also all trees, erections, materials, implements and things provided for such streets :

[1][Provided that lands transferred to the Municipality by the State Government under clause (*e*) shall not, unless otherwise expressly provided in the instrument of transfer, belong by right of ownership to the Municipality but shall vest in them subject to the terms and conditions of the transfer, and on the breach of any of the said terms or conditions, the lands with all things attached thereto, including all fixtures and structures thereon, shall revest in the State Government and it shall be lawful for the State Government to resume possession thereof.]

Decision of claims to property by or against the Municipality.

[2][**50A.** (*1*) In any municipal district to which a survey of lands other than lands ordinarily used for the purposes of agriculture only has been or shall be extended under any law for the time being in force, where any property or any right in or over any property is claimed by or on behalf of the Municipality, or by any person as against the Municipality, it shall be lawful for the Collector after formal inquiry, of which due notice has been given, to pass an order deciding the claim.

(*2*) Any suit instituted in any Civil Court after the expiration of one year from the date of any order passed by the Collector under sub-section (*1*), or, if one or more appeals have been made against such order within the period of limitation, then from the date of any order passed by the final appellate authority, as determined according to section 204 of the Bombay Land Revenue Code, 1879[3], shall be dismissed (although limitation has not been set up as a defence) if the suit is brought to set aside such order or if the relief claimed is inconsistent with such order, provided that the plaintiff has had due notice of such order.

Bom. V of 1879.

(*3*) (*a*) The powers conferred by this section on a Collector may also be exercised by an Assistant or Deputy Collector or by a Survey Officer as defined in the [3]Bombay Land Revenue Code, 1879.

Bom. V of 1879.

(*b*) The formal inquiry referred to in this section shall be conducted in accordance with the provisions of the aforesaid Code.

(*c*) Any person shall be deemed to have had due notice of an inquiry or order under this section if notice thereof has been given in accordance with rules made in this behalf by the [4][[5][State] Government].

Municipal Fund.

51. All moneys received by or on behalf of the Municipality by virtue of this or any other Act ; all taxes, tolls and other imposts, fines, fees, penalties paid to or levied by them under this Act [6][other than fines imposed by a Court]; all proceeds of land or other property sold by the Municipality, and all rents accruing from their

[1] This proviso was added by Bom. 35 of 1954, s. 8.

[2] Section 50A was inserted by section 1 of the Bombay District Municipal Amendment Act, 1912 (Bom. 10 of 1912).

[3] *Supra.*

[4] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[5] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[6] The words "other than fines imposed by a court" were inserted by the Adaptation of Indian Laws Order in Council.

land or property ; as also all interests, profits and other moneys accruing by gifts or transfers from the [1][Government] or private individuals or otherwise, shall constitute the municipal fund, and shall be held and dealt with in a similar manner to the property mentioned in [2][section 50] ;

Provided that—

Provision as to special trusts.

(*a*) nothing in this section, or in [2][section 50], shall in any way affect any obligations accepted by or imposed upon any Municipality by any declarations of trust executed by or on behalf of such Municipality, or by any scheme settled under the [3]Charitable Endowments Act, 1890, for the administration of any trust ; VI of 1890.

When special trusts may be created.

(*b*) a Municipality may, subject to the condition that reasonable provision shall be made for the performance of all obligations imposed or that may be imposed on them by section 54, 55 or by or under section 61, or 72 or Chapter XII, credit to a separate heading in the municipal accounts any portion of the municipal fund received by them specially for or devoted by them to, the purposes of schools or dispensaries or of water-works or fire-brigades, or other such purposes as the Commissioner in this behalf approves, and, provided that there shall be credited to such special heading such sums only as expressly relate to the object for which the fund designated by such heading was created, the Municipality may apply the sums so credited exclusively to the respective objects to which they are so credited.

[4](*c*) (*1*) Every Municipality in a municipal district in which a tax on pilgrims resorting periodically to a shrine within the limits of the municipal district is levied shall, subject to the condition that reasonable provision shall be made for the purposes specified in clause (2), credit the proceeds of the said tax to a separate heading in the municipal account, to be called the " Pilgrim Fund Account ".

(*2*) The purposes for which provision shall be made by a municipality before the proceeds of the pilgrim tax are credited to the Pilgrim Fund Account shall be the following namely, the payment to the municipality of such percentage of the proceeds of the said tax as may be determined from time to time by the municipality with the approval of the Commissioner for—

(*i*) making reasonable provision for the performance of all obligations imposed or which may be imposed on it by or under section 61 or 72 or Chapter XII ;

(*ii*) such general duties of the Municipality as are connected with the health, convenience and safety of the said pilgrims ; and

(*iii*) the cost of collection of the said tax.

(*3*) The sums credited under clause (1) shall be devoted to such works conducive to the health, convenience and safety of the said pilgrims as may be approved by the Commissioner.

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[1] This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.
[2] This word and these figures were substituted for the words "the last preceding section" by s. 2 of the Bombay District Municipal Amendment Act, 1912 (Bom. 10 of 1912).
[3] Central Acts.
[4] This clause was inserted by Bom. 4 of 1930, s. 2 (*vii*).

Municipal property and funds how to be applied.

52. All property vested in the Municipality under this Act, and all funds received by them in accordance with the provisions of this Act, and all sums accruing to them under the provisions of any law for the time being in force, shall be applied, subject to the provisions and for the purposes of this Act, within the limits of the municipal district :

Provided always that it shall be lawful for the Municipality, with the sanction of the [1][[2]State] Government] or any officer duly authorized by [3][it] in this behalf,

(*a*) to incur expenditure beyond the said limits,—

(*i*) in the acquisition of land, or

(*ii*) in the construction, maintenance, [4][repair or purchase of works,]

for the purpose of obtaining a supply of water required for the inhabitants of the municipal district, [5][or of providing the supply of electrical energy for the use of the inhabitants of the said district] or of establishing slaughter-houses or places for the disposal of night-soil or sewage or carcasses of animals beyond the said limits, or for drainage-works, [6][or for the purpose of providing mechanically propelled transport facilities for conveyance of the public or for the purpose of setting up of dairies or farms for the supply, distribution and processing of milk or milk products for the benefit of the inhabitants of the municipal district], or for any other purpose calculated to promote the health, safety or convenience of the inhabitants of the said district ; or

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[1] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[3] The word " it " was substituted for the word " him " by the Adaptation of Indian Laws Order in Council.

[4] These words were substituted for the words " or repair of works " by Bom. 44 of 1951, s. 2(*1*).

[5] These words were inserted, *ibid.*

[6] These words were inserted by Bom. 35 of 1955, s. 10.

[1][(*kk*) for securing an adequate supply of pure water to persons occupying residential premises ;]

(*l*) regulating the use of public bathing and washing places within municipal limits ; — regulating public baths, etc.,

(*m*) regulating sanitation and conservancy and the disposal of carcasses of dead animals ; — for conservancy.

(*n*) regulating the conditions on which permission may be given for the temporary occupation of, or the erection of temporary structures on, public streets or for projections over public streets and regulating the structure and dimensions of plinths, walls, foundations, roofs and chimneys of new buildings for the purpose of securing stability and the prevention of fires, and for purposes of health ; — regulating structures and buildings ;

(*o*) for preventing the erection of buildings without adequate provision being made for the laying out and location of streets ; — for providing for streets ;

(*p*) for ensuring the adequate ventilation of buildings by the provision and maintenance of sufficient open space either internal or external and of doors and windows and other means for securing a free circulation of air ; — for ensuring ventilation ;

[2][(*pp*) for requiring an owner of a building divided into two or more separate tenements to provide adequate means of lighting at night time a staircase, passage or private court of or in any such building or the spaces near or leading to latrines or urinals or washing places therein and of extinguishing such lights ; — for requiring lighting staircases, etc., at night.

(*q*) [3]* * * prescribing the qualifications of surveyors or persons by whom plans required under section 96 are to be prepared, or of plumbers ; for licensing persons to be surveyors or plumbers, and fixing the fees chargeable for such licences ; and for modifying the provisions of, or revoking such licences ; and prohibiting any alterations or repairs or fittings to water or drainage-pipes or house-connections being carried out or made, except by such persons ; — requiring qualified surveyors ; [3]* *

(*r*) regulating, in any other particular not specifically provided for in this Act, the construction, maintenance and control of drains, sewers, ventilation shafts, receptacles for dung and manure, cesspools, water closets, privies, latrines urinals, and drainage or sewerage works of every description whether the property of the Municipality or not ; — control of drains ;

(*s*) determining the information and plans to be required by the Municipality under sections 91 and 96 ; — requiring information and plans in certain cases ;

(*t*) prohibiting the transit of any vehicles of such form, construction, weight or size or laden with such machinery or other unwieldy objects as may be deemed likely to cause injury to the roadway, or to any construction thereon, or risk or obstruction to other vehicles or to pedestrians along or over any street, except under such conditions as to time, mode of traction of locomotion, use of appliances — for controlling unwieldy traffic, and

[1] Clause (*kk*) was inserted by Bom. 52 of 1949, s. 9 (*iii*).
[2] Clause (*pp*) was inserted by Bom. 53 of 1954, s. 4.
[3] The words " in a City Municipality " and the words " in City Municipalities " in the marginal note were deleted by Bom. 51 of 1949, s. 9 (*iv*).

for protection of the roadway, number of lights and assistants, and other general precautions as may be prescribed, either generally in such by-laws, or in special licences to be granted in each case upon such terms as to time of application and payment of fees therefor as may be prescribed in such by-laws :

Provided that no such by-law relating only to any particular street or portion of a street shall be deemed to be in force, unless and until notices of such prohibition shall have been posted up by the Municipality in conspicuous places at or near both ends of such street or portion of a street ;

[1][(*u*) prescribing the conditions on or subject to which licences may be granted refused, suspended or withdrawn, for the use of hand-carts and hand-barrows, other than those plying for hire in respect of which licences have been granted under the Bombay Public Conveyances Act, 1920, and providing for the seizure and detention of any hand-carts or hand-barrows which have not been duly licensed in pursuance of the by-laws made under this section ; Bom. VII of 1920.

(*v*) prescribing the conditions on or subject to which licences may be granted, refused, suspended or withdrawn for hawking or exposing for sale in any public place or street any article whatsoever whether it be for human consumption or not ;]

regulating municipal administration.

[1][(*w*) generally for the regulation of all matters relating to municipal administration.

Fine may be imposed for infringement of by-laws.

And every Municipality may, with the like sanction, prescribe a fine not exceeding five hundred rupees for the infringement of any such by-law.

[2][(*1a*) Every Municipality may, from time to time, with the previous sanction, in the case of city municipalities, of the Central Government, and in other cases, of the Commissioner, make, alter or rescind by-laws, but not so as to render them inconsistent with this Act, for the taking of a census within the municipal district and for enforcing the supply of such information as may be necessary to make the census effective.]

Publication of drafts of proposed by-laws.

(*2*) Every Municipality shall, before making any by-law under this section, publish in such manner as shall in their opinion be sufficient, for the information of the persons likely to be affected thereby, a draft of the proposed by-law, together with a notice specifying a date on or after which the draft will be taken into consideration, and shall, before making the by-law receive and consider any objection or suggestion with respect to the draft which may be made in writing by any person before the date so specified.

Objections and suggestions to be submitted to Central Government [5][State] Government or Commissioner as the case may be.

(*3*) When any by-law made by a Municipality is submitted to the [3][Central Government], [4][[5][State] Government] or Commissioner for sanction, a copy of the notice published as aforesaid, and of every objection or suggestion so made, shall be submitted for the information of the [3][Central Government], [4][[5][State] Government] or Commissioner along with the said by-law.

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[1] Clauses (*u*) and (*v*) were inserted and the original clause (*u*) was renumbered as cl. (*w*) by Bom. 52 of 1949, s. 9 (*v*).

[2] Sub-section (*1a*) was inserted by the Adaptation of Indian Laws Order in Council.

[3] The words " Central Government " were inserted, *ibid.*

[4] The words " Provincial Government " were substituted for the words " Governor in Council ", *ibid.*

[5] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

49. The rules and by-laws for the time being in force shall be kept open for public inspection at the municipal office at all reasonable times, and printed copies thereof and of this Act in the vernacular language of the district, and in City Municipalities in English as well as in the vernacular, shall be kept on sale at cost price. Rules and by-laws to be printed and sold.

CHAPTER V.

MUNICIPAL PROPERTY AND FUND.

50. (*1*) Every Municipality may acquire and hold property both moveable and immovable, whether within or without the limits of the municipal district. Power to acquire and hold property.

(*2*) All property of the nature hereinafter in this section specified, and not being specially reserved by the [1][[2]State] Government] shall be vested in and belong to the Municipality, and shall, together with all other property, of what nature or kind soever, not being specially reserved by the [1][[2]State] Government], which may become vested in the Municipality, be under their direction, management and control, and shall be held and applied by them as trustees, subject to the provisions and for the purposes of this Act; that is to say— Property vested in the Municipality.

(*a*) all public town-walls, gates, markets, slaughter-houses, manure and night-soil depots, and public buildings of every description;

(*b*) all public streams, tanks, reservoirs, cisterns, wells, springs, aqueducts, conduits, tunnels, pipes, pumps and other water-works, and all bridges, buildings, engines, works, materials and things connected therewith or appertaining thereto, and also any adjacent land (not being private property) appertaining to any public tank or well;

(*c*) all public sewers and drains, and all sewers, drains, tunnels, culverts, gutters and water-courses in, alongside or under any streets, and all works, materials and things appertaining thereto, as also all dust, dirt, dung, ashes, refuse, animal matter, or filth, or rubbish of any kind collected by the Municipality from the streets, houses, privies, sewers, cesspools or elsewhere;

(*d*) all public lamps, lamp-posts, and apparatus connected therewith, or appertaining thereto;

(*e*) all lands transferred to them by the [3][Government] or by gift or otherwise, for local public purposes;

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[1] The words " Provincial Government " were substituted for the words " Governor in Council ", by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[3] This word was substituted for the word " Crown " *ibid.*

(*f*) all public streets, and the pavements, stones and other materials thereof and also all trees, erections, materials, implements and things provided for such streets :

[1][Provided that lands transferred to the Municipality by the State Government under clause (*e*) shall not, unless otherwise expressly provided in the instrument of transfer, belong by right of ownership to the Municipality but shall vest in them subject to the terms and conditions of the transfer, and on the breach of any of the said terms or conditions, the lands with all things attached thereto, including all fixtures and structures thereon, shall revest in the State Government and it shall be lawful for the State Government to resume possession thereof.]

[2][**50A.** (*1*) In any municipal district to which a survey of lands other than lands ordinarily used for the purposes of agriculture only has been or shall be extended under any law for the time being in force, where any property or any right in or over any property is claimed by or on behalf of the Municipality, or by any person as against the Municipality, it shall be lawful for the Collector after formal inquiry, of which due notice has been given, to pass an order deciding the claim. **Decision of claims to property by or against the Municipality.**

(*2*) Any suit instituted in any Civil Court after the expiration of one year from the date of any order passed by the Collector under sub-section (*1*), or, if one or more appeals have been made against such order within the period of limitation, then from the date of any order passed by the final appellate authority, as determined according to section 204 of the Bombay Land Revenue Code, 1879[3], shall be dismissed (although limitation has not been set up as a defence) if the suit is brought to set aside such order or if the relief claimed is inconsistent with such order, provided that the plaintiff has had due notice of such order.

Bom. V of 1879.

(*3*) (*a*) The powers conferred by this section on a Collector may also be exercised by an Assistant or Deputy Collector or by a Survey Officer as defined in the [3]Bombay Land Revenue Code, 1879.

Bom. V of 1879.

(*b*) The formal inquiry referred to in this section shall be conducted in accordance with the provisions of the aforesaid Code.

(*c*) Any person shall be deemed to have had due notice of an inquiry or order under this section if notice thereof has been given in accordance with rules made in this behalf by the [4][[5][State] Government].

51. All moneys received by or on behalf of the Municipality by virtue of this or any other Act ; all taxes, tolls and other imposts, fines, fees, penalties paid to or levied by them under this Act [6][other than fines imposed by a Court]; all proceeds of land or other property sold by the Municipality, and all rents accruing from their **Municipal Fund.**

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[1] This proviso was added by Bom. 35 of 1954, s. 8.

[2] Section 50A was inserted by section 1 of the Bombay District Municipal Amendment Act, 1912 (Bom. 10 of 1912).

[3] *Supra.*

[4] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[5] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[6] The words "other than fines imposed by a court" were inserted by the Adaptation of Indian Laws Order in Council.

land or property ; as also all interests, profits and other moneys accruing by gifts or transfers from the [1][Government] or private individuals or otherwise, shall constitute the municipal fund, and shall be held and dealt with in a similar manner to the property mentioned in [2][section 50] ;

Provided that—

Provision as to special trusts.

(*a*) nothing in this section, or in [2][section 50], shall in any way affect any obligations accepted by or imposed upon any Municipality by any declarations of trust executed by or on behalf of such Municipality, or by any scheme settled under the [3]Charitable Endowments Act, 1890, for the administration of any trust ; VI of 1890.

When special trusts may be created.

(*b*) a Municipality may, subject to the condition that reasonable provision shall be made for the performance of all obligations imposed or that may be imposed on them by section 54, 55 or by or under section 61, or 72 or Chapter XII, credit to a separate heading in the municipal accounts any portion of the municipal fund received by them specially for or devoted by them to, the purposes of schools or dispensaries or of water-works or fire-brigades, or other such purposes as the Commissioner in this behalf approves, and, provided that there shall be credited to such special heading such sums only as expressly relate to the object for which the fund designated by such heading was created, the Municipality may apply the sums so credited exclusively to the respective objects to which they are so credited.

[4](*c*) (*1*) Every Municipality in a municipal district in which a tax on pilgrims resorting periodically to a shrine within the limits of the municipal district is levied shall, subject to the condition that reasonable provision shall be made for the purposes specified in clause (2), credit the proceeds of the said tax to a separate heading in the municipal account, to be called the " Pilgrim Fund Account ".

(*2*) The purposes for which provision shall be made by a municipality before the proceeds of the pilgrim tax are credited to the Pilgrim Fund Account shall be the following namely, the payment to the municipality of such percentage of the proceeds of the said tax as may be determined from time to time by the municipality with the approval of the Commissioner for—

(*i*) making reasonable provision for the performance of all obligations imposed or which may be imposed on it by or under section 61 or 72 or Chapter XII ;

(*ii*) such general duties of the Municipality as are connected with the health, convenience and safety of the said pilgrims ; and

(*iii*) the cost of collection of the said tax.

(*3*) The sums credited under clause (1) shall be devoted to such works conducive to the health, convenience and safety of the said pilgrims as may be approved by the Commissioner.

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[1] This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.
[2] This word and these figures were substituted for the words "the last preceding section" by s. 2 of the Bombay District Municipal Amendment Act, 1912 (Bom. 10 of 1912).
[3] Central Acts.
[4] This clause was inserted by Bom. 4 of 1930, s. 2 (*vii*).

Municipal property and funds how to be applied.

52. All property vested in the Municipality under this Act, and all funds received by them in accordance with the provisions of this Act, and all sums accruing to them under the provisions of any law for the time being in force, shall be applied, subject to the provisions and for the purposes of this Act, within the limits of the municipal district :

Provided always that it shall be lawful for the Municipality, with the sanction of the [1][[2]State] Government] or any officer duly authorized by [3][it] in this behalf,

(*a*) to incur expenditure beyond the said limits,—

(*i*) in the acquisition of land, or

(*ii*) in the construction, maintenance, [4][repair or purchase of works,]

for the purpose of obtaining a supply of water required for the inhabitants of the municipal district, [5][or of providing the supply of electrical energy for the use of the inhabitants of the said district] or of establishing slaughter-houses or places for the disposal of night-soil or sewage or carcasses of animals beyond the said limits, or for drainage-works, [6][or for the purpose of providing mechanically propelled transport facilities for conveyance of the public or for the purpose of setting up of dairies or farms for the supply, distribution and processing of milk or milk products for the benefit of the inhabitants of the municipal district], or for any other purpose calculated to promote the health, safety or convenience of the inhabitants of the said district ; or

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[1] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[3] The word " it " was substituted for the word " him " by the Adaptation of Indian Laws Order in Council.

[4] These words were substituted for the words " or repair of works " by Bom. 44 of 1951, s. 2(*1*).

[5] These words were inserted, *ibid.*

[6] These words were inserted by Bom. 35 of 1955, s. 10.

(*b*) to make a contribution towards expenditure incurred by any other Municipality, or in any area subject to the authority of a local board or cantonment authority, or Sanitary Board or Committee, or of a Committee appointed under section 188 for an area notified under section 187, or incurred out of any public funds for measures affecting the health, instruction or convenience of the public and calculated to benefit the residents within the limits of the contributing Municipality ; or

(*c*) to create scholarships tenable outside the limits of the municipal district :

Provided further that nothing in this section, or in any other provision of this Act, shall be deemed to make it unlawful for a Municipality when with such sanction as aforesaid they have constructed works beyond the limits of the said district for the supply of water [1][or electrical energy] or for drainage as aforesaid,—

(*a*) to supply or extend to, or for the benefit of, any person or buildings or lands in any place [2]* * * *, whether such place is or is not within the limits of the said district, any quantity of water [1][or electrical energy] not required for the purposes of this Act within the said district, or the advantages afforded by the system of such drainage works, on such terms and conditions, with regard to payment and to the continuance of such supply or advantages, as shall be settled by agreement between the Municipality and such person or the occupier or owner of such buildings or lands, or

(*b*) to incur any expenditure, on such terms with regard to payment as may be settled as aforesaid, for the construction, maintenance, repair or alteration of any connection pipes [1][or any electric supply lines] or other works necessary for the purpose of such supply or for the extension of such advantages.

Power to deposit and invest surplus funds.

53. (*1*) It shall be lawful for the Municipality to deposit [3]* * with the [4][Imperial Bank of India], or such other bank as may hereafter be appointed to conduct the business of [5][Government Treasury] at Bombay [6][or in any other scheduled bank] or with the sanction of the [7][[8][State] Government] in any bank in the Presidency of Bombay, any surplus funds in their hands which may not be required for current charges, and to invest such funds in public securities in the name of the Municipality, and from time to time to dispose of such securities as may be necessary.

[9][*Explanation.*—For the purposes of this sub-section, a scheduled bank shall mean a bank included in the Second Schedule to the Reserve Bank of India Act, 1934.]

II of 1934.

Surplus not so deposited or invested how to be dealt with.

(*2*) All surplus funds over and above what may be required for current expenses shall, unless deposited or invested as provided for in sub-section (*1*), be deposited in the Local Government Treasury or such other place of security as may be sanctioned in the rules of the said Municipality.

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[1] These words were inserted by Bom. 44 of 1951, s. 2 (*2*).

[2] The words "throughout the line of country in which such wards are situate, or contiguous to such line of country" were repealed by Bom. 3 of 1903, s. 1.

[3] The words "at interest" were deleted by Bom. 23 of 1931, s. 2 (*i*)(*a*).

[4] The words "Imperial Bank of India" were substituted for the words "Bank of Bombay", *ibid*, s. 2(*i*) (*b*).

[5] These words were substituted for the words "His Majesty's Treasury" by the Adaptation of Laws Order, 1950.

[6] Those words were inserted by Bom. 26 of 1953, s. 6 (*1*). This amendment shall be deemed to have been made on and to have effect from the 20th day of November 1951 (*vide* s. 30 of Bom. 26 of 1953).

[7] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[8] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[9] This Explanation was added by Bom. 26 of 1953, s. 6 (*2*); see also foot-note 6.

CHAPTER VI.

OBLIGATORY AND DISCRETIONAL FUNCTIONS OF MUNICIPALITIES.

Duties of Municipalities.

54. It shall be the duty of every Municipality to make reasonable provision—

(*I*) for the following matters within the municipal district under their authority, namely :—

(*a*) lighting public streets, places and buildings ;

(*b*) watering public streets and places ;

(*c*) cleansing public streets, places and sewers, and all spaces not being private property, which are open to the enjoyment of the public, whether such spaces are vested in the Municipality or not ; removing noxious vegetation ; and abating all public nuisances ;

(*d*) extinguishing fires, and protecting life and property when fires occur ;

(*e*) regulating or abating offensive or dangerous trades or practices ;

(*f*) removing obstruction and projections in public streets or places, and in spaces not being private property, which are open to the enjoyment of the public, whether such spaces are vested in the Municipality or belong to [1][Government] ;

(*g*) securing or removing dangerous buildings or places, and reclaiming unhealthy localities ;

(*h*) acquiring and maintaining, changing and regulating places for the disposal of the dead ;

(*i*) constructing, altering and maintaining public streets, culverts, municipal boundary-marks, markets, slaughter-houses, latrines, privies, urinals, drains, sewers, drainage-works, sewerage works, baths, washing places, drinking fountains, tanks, wells, dams and the like ;

(*j*) obtaining a supply or an additional supply of water, proper and sufficient for preventing danger to the health of the inhabitants from the insufficiency or unwholesomeness of the existing supply when such supply or additional supply can be obtained at a reasonable cost ;

(*k*) naming streets and numbering houses ;

(*l*) registering births and deaths ;

(*m*) public vaccination ;

(*n*) suitable accommodation for any calves, cows or buffaloes required within the municipal district for the supply of animal lymph ;

(*o*) establishing and maintaining public hospitals and dispensaries and providing public medical relief ;

(*p*) establishing and maintaining primary schools ;

(*q*) printing such annual reports on the municipal administration of the district as the [2][[3][State] Government] by general or special orders requires the Municipality to submit ;

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[1] This word was substituted for the words " His Majesty " by the Adaptation of Laws Order, 1950.

[2] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

[3] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

(*r*) paying the salary and the contingent expenditure on account of such police or guards as may be required by the Municipality for the purposes of this Act or for the protection of any municipal property [1]* * *

[2][(*s*) disposing of night-soil and rubbish and, if so required by the Provincial Government, preparation of compost manure from such night-soil and rubbish ;

(*t*) constructing and maintaining residential quarters for the conservancy staff of the municipality ;]

and subject to such reasonable provision as aforesaid,

(*2*) for the following special matters, namely :—

(*a*) providing special medical aid and accommodation for the sick in time of dangerous disease ; and taking such measures as may be required to prevent the out break of, or to suppress and prevent the recurrence of the disease ;

(*b*) giving relief and establishing and maintaining relief works in time of famine or scarcity to or for destitute persons within the limits of the municipal district.

Provision for lunatics and lepers.

55. Every Municipality shall also, out of the municipal property and fund, make payments at such rates as the [3][Provincial Government] from time to time by general or special orders, prescribes, for the maintenance and treatment either in the municipal district or at any asylum, hospital or house, whether within or without such district, which the [3][Provincial Government] declares by notification, to be suitable for such purpose,

(*a*) of lunatics, not being persons for whose confinement an order under Chapter XXXIV of the Code of Criminal Procedure, 1898, is in force, and

V of 1898.

(*b*) of [4]lepers,

[5]* * * under any enactment for the time being in force removed from, such district :

[6][Provided that where an application is made to the High Court or a District Court under the provisions of section 88 of the Indian Lunacy Act, 1912, no order for the payment of the cost of maintenance of the lunatic by a Municipality shall be made without an opportunity being given to such Municipality to show that the lunatic has an estate applicable to his maintenance or that there is a person legally bound, and having the means, to maitain him :

IV of 1912.

Provided further that the Municipality shall not be liable under this section for the maintenance and treatment of any lunatic or leper in any such asylum, hospital or house as aforesaid, unless such lunatic or leper, immediately previous to his admission thereto, has been resident in the municipal district for at least one year.

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[1] The words and figures " and providing such accommodation as may be required by Government under section 77 of the Bombay District Police Act, 1890 " were repealed by s. 3 and Sch. II, Pt. II, of the Bombay Repealing and Amending Act, 1910 (Bom. I of 1910).

[2] Clauses (s) and (t) were inserted by Bom. 52 of 1949, s. 10.

[3] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

[4] For the law in force in British India generally dealing with the control of lepers, *see* the Lepers Act, 1898 (3 of 1898), Central Acts.

[5] The words " habitually resident within, or " were deleted by Bom. 15 of 1936, s. 3 (1).

[6] These provisoes were substituted for the original proviso, *ibid.*, s. 3 (2).

The officer in charge of an asylum to which lunatics or lepers for whose maintenance and treatment a Municipality is liable under this section are admitted shall maintain a clear account of the cost of maintenance and treatment incurred on account of such person detained in the asylum and shall furnish a copy thereof to the Municipality.]

Analysis and inspection of water supplied through pipes.

[1][**55A.** If any municipality supplies water through pipes, it shall take such steps, at such intervals, and on payment of such fees, as may be determined by a general or special order made by the Provincial Government, to ascertain the condition of the water so supplied, by inspection and analysis at a laboratory approved by the Provincial Government in that behalf:

Provided that the Provincial Government may, by notification in the *Official Gazette*, exempt any municipality from the provisions of this section.]

Provision for anti-rabic treatment of indigent persons.

[1][**55B.** Every municipality shall, out of the municipal property and fund, make payments, at such rates and subject to such conditions as the Provincial Government from time to time by general or special order prescribes, for the maintenance and treatment in any institution which the Provincial Government declares by notification to be suitable for such purpose either within or without the municipal district and for other necessary expenses, of persons proceeding from the municipal district for the purpose of, and undergoing, anti-rabic treatment as indigent persons according to the rules applicable to such institution:

Provided that the municipality shall not be liable under this section for the maintenance, treatment and other necessary expenses of any person undergoing anti-rabic treatment as an indigent person in any such institution as aforesaid, unless such person previous to his admission thereto, has been resident in the municipal district for at least one year.]

Discretionary powers of expenditure of Municipalities.

56. Municipalities may, at their discretion, provide out of the said property and fund, either wholly or partly, for—

(*a*) laying out, whether in areas previously built upon or not, new public streets, and acquiring the land for that purpose, including the land requisite for the construction of buildings or curtilages thereof, to abut on such streets;

(*b*) constructing, establishing or maintaining public parks, gardens, libraries, museums, lunatic asylums, halls, offices, dharamshalas, [2][rest-houses, homes for the disabled and destitute persons] and other public buildings;

(*c*) furthering educational objects other than those set forth in sub-clause (*p*) of [3][section 54];

(*d*) planting and maintaining roadside and other trees;

(*e*) taking a census, and granting rewards for information which may tend to secure the correct registration of vital statistics;

(*f*) making a survey;

(*g*) the salaries and allowances, rent and other charges incidental to the maintenance of the Court of any stipendiary or Honorary Magistrate, or any portion of any such charges;

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[1] Sections 55A and 55B were inserted by Bom. 52 of 1949, s. 11.

[2] These words were substituted for the words " or rest-houses ", *ibid* s. 12(*i*).

[3] This word and these figures were substituted for the word and figures " clause 54 " by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. 3 of 1902).

(*h*) arrangements for the destruction or the detention and preservation of such dogs within the municipal district as may be dealt with under section 49 of the Bombay District Police Act, 1890.† [1]* * * * *

Bom. IV of 1890.

(*i*) securing or assisting to secure suitable places for the carrying on of the offensive trades mentioned in sub-section (*l*) of section 151 ;

(*j*) supplying, constructing and maintaining, in accordance with a general system approved by the Sanitary Board, receptacles, fittings, pipes and other appliances whatsoever, on or for the use of private premises, for receiving and conducting the sewage thereof into sewers under the control of the municipality ;

(*k*) establishing and maintaining a farm or factory for the disposal of sewage ;

[2][(*kk*) the construction, purchase organisation, maintenance, extension and management of mechanically propelled transport facilities for the conveyance of the public ;]

[3][(*kk*[1]) the construction, maintenance, repairs or purchase of any works for the supply of electrical energy ;]

[4][(*kk-i*) promoting the well-being of municipal employees or any class of municipal employees and of their dependents ;

(*kk-ii*) providing accommodation for any class of employees of the municipalities other than the conservancy staff ;

(*kk-iii*) the construction of sanitary dwellings for the poorer classes ;

(*kk-iv*) making contributions to the funds of the Local Self-Government Institute, Bombay ;]

[5][(*kk-v*) making contributions towards the construction, establishment or maintenance of educational institutions including libraries and museums, any hospital, dispensary or similar institution providing for public medical relief, or any other institution of a charitable nature ;]

[6][(*kk-vi*) the setting up of dairies or farms for the supply, distribution and processing of milk or milk products for the benefit of the inhabitants of the municipal district ;]

(*l*) any other measure not specified in section 54 likely to promote the public safety, health, convenience or education ; and

(*m*) with the previous concurrence [7]*** of the Collector, any public reception ceremony, entertainment or exhibition within the municipal district.

Arrangement purporting to be binding permanently or for a term of years.

57. When a Municipality have entered into any arrangement or made any promise, purporting to bind themselves or their successors, for a term of years or for an unlimited period to continue to any educational or charitable institution a yearly contribution from the municipal property or fund, it shall be lawful for the Municipality or their successors, with the sanction in the case of a City Municipality

†See new Bombay Police Act, 1951 (Bom.) 22 of 1951.

[1] The words and figures "or, as the case may be, section 29 of the City of Bombay Police Act, 1902" were deleted by Bom. 17 of 1945, s. 9, read with Bom. 8 of 1950.

[2] This clause was inserted by Bom. 2 of 1947, s. 2.

[3] This clause was inserted by Bom. 44 of 1951, s. 3.

[4] These clauses were inserted by Bom. 52 of 1949, s. 12 (*ii*).

[5] Clause (*kk-v*) was inserted by Bom. 26 of 1953, s. 7.

[6] This clause was added by Bom. 35 of 1955, s. 11.

[7] The words in "the case of City Municipalities, of the Commissioner, or in other cases" were repealed by Sch. I of the Bombay Decentralization Act, 1915 (Bom. 3 of 1915).

of the [1][[2]State] Government], and in the case of any other Municipality of the Commissioner, to cancel such arrangement or promise, or to discontinue or to diminish such yearly contribution, provided that they shall have given at least twelve months' notice of their intention so to do to the manager or managers of such institution.

Management of public institutions maintained by Municipalities to vest in them.

58. The management, control and administration of every public institution exclusively maintained out of municipal property and funds shall vest in the Municipality by which it is maintained :

Provided that the extent of the independent authority of any Municipality in respect of public education and their relations with the [3][Educational Department] of the [2][State] Government] shall from time to time be prescribed by the [1][[2][State] Government].

CHAPTER VII.

MUNICIPAL TAXATION.

(*1*) *Imposition of Taxes.*

Taxes which may be imposed.

59. [4](*1*) Subject to any general or special orders which the [1][[2][State] Government] may make in this behalf, any Municipality—

(*a*) after observing the preliminary procedure required by [5][section 60] and

(*b*) with the sanction of the [1][[2][State] Government] in the case of City Municipalities, and in other cases of the Commissioner, and subject to such modifications or conditions as under section 61 the [1][[2][State] Government] or the Commissioner, respectively, in according such sanction, deems fit,

may impose, for the purposes of this Act, any of the following taxes, that is to say,

(*i*) a rate on buildings or lands or both, situate within the municipal district;

(*ii*) a tax on all or any vehicles, boats, or animals used for riding, draught or burden, kept for use within the said district, [6][whether they are actually kept within or outside the said district :

Provided that where a motor vehicle is kept for use within the said district as well as another municipal district or municipal borough as (defined in the Bombay Municipal Boroughs Act, 1925) it shall be liable to be taxed only by the Municipality within, or nearest to, whose limits such vehicle is actually kept ;] Bom. XVIII of 1925.

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] The words "Educational Department of the Provincial Government" were substituted for the words "Government Educational Department" by the Adaptation of Indian Laws Order in Council.

[4] The figure and brackets "(*1*)" were added by Bom. 52 of 1949, s. 13.

[5] This word and these figures were substituted for the word and figures "section 61" by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. 3 of 1902).

[6] This portion was added by Bom. 7 of 1946, s. 2, read with Bom. 1 of 1947, s. 4.

(*iii*) a toll on vehicles, [1][(other than motor vehicles or trailers save as provided in section 14 of the Bombay Motor Vehicles Tax Act, 1935)] and animals used as aforesaid, entering the said district, but not liable to taxation under the clause last preceding;

Bom. XXX. IV of 1935.

(*iv*) an octroi on animals or goods, or both, brought within the octroi limits for consumption [2][,use or sale] therein;

(*v*) a tax on dogs kept within the said district;

(*vi*) a special sanitary cess upon private latrines, premises or compounds cleansed by municipal agency, after notice given as hereinafter required;

(*vii*) a general sanitary cess for the construction or maintenance, or both construction and maintenance, of public latrines, and for the removal and disposal of refuse;

(*viii*) [3][a general water-rate or a special water rate or both] for water supplied by the Municipality, which may be imposed in the form of a rate assessed on buildings and lands, or in any other form, including that of charges for such supply, fixed in such mode or modes as shall be best adapted to the varying circumstances of any class of [4][cases] or of any individual case;

(*ix*) a lighting tax;

(*x*) a tax on pilgrims resorting periodically to a shrine within the limits of the municipal district;

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[1] These words, figures and brackets were inserted by Bom. 34 of 1935, s. 22, Sch. II.
[2] These words were substituted for the words " or use " by Bom. 35 of 1954, s. 9.
[3] These words were substituted for the words " a water-rate or water-rates " by Bom. 52 of 1949, s. 13.
[4] The word " cases " was substituted for the word " case " by Bom. 24 of 1936, s. 2, Sch.

[1](*x-A*) * * * * *

Bom. XXXIV of 1935.

[2](*xi*) any other tax (not being a toll on motor vehicles and trailers, save as provided by section 14 of the Bombay Motor Vehicles Tax Act, 1935) :

Provided that—

(*a*) no tax imposed as aforesaid, other than a special sanitary cess or a water-rate, shall, without the express consent of [3][the [4][State] Government], be leviable in respect of any building or part of any building, or of any vehicle, animal or other property, belonging to [5][Government] and used solely for public purposes, and not used or intended to be used for purposes of profit, and no toll shall be leviable for the passage of troops or the conveyance of [6][[7][Government] stores] or of any other [8][[7][Government] property], or for the passage of Military or Police-officers on duty, or the passage or conveyance of any person or property in their custody ;

(*b*) no special sanitary cess shall be leviable in respect of any private latrines, premises or compounds unless and until the Municipality have—

(*i*) made provision for the cleansing thereof by manual labour, or for conducting or receiving the sewage thereof into municipal sewers, and

(*ii*) issued either severally to the persons to be charged, or generally to the inhabitants of the district or part of the district to be charged, with such cess one month's notice of the intention of the Municipality to perform such cleansing and to levy such cess ;

(*c*) the Municipality in lieu of imposing separately any two or more of the taxes described in clauses (*i*), (*vii*), (*viii*) and (*ix*) [9]* * *may impose a consolidated tax assessed as a rate on buildings or lands, or both situate within the municipal district.

[10][(*2*) Nothing in this section shall authorise the imposition of any tax which the [4][State] Legislature has no power to impose in the [11][State] under the [12][Constitution] :

Provided that a Municipality which immediately before the commencement of [13][the Constitution] was lawfully levying any such tax under this section as then in force, may continue to levy that tax until provision to the contrary is made by [14][Parliament].

Procedure of Municipality preliminary to imposing tax.

60. Every Municipality before imposing a tax shall observe the following preliminary procedure :—

(*a*) They shall, by resolution passed at a general meeting,

(*i*) select for the purpose one or other of the taxes specified in section 59 ;

(*ii*) prepare rules for the purposes of clause (*i*) of section 46 prescribing the tax selected ;

and shall by such resolution and in such rules specify,—

(*iii*) the class or classes of persons or of property, or of both, which the Municipality desire to make liable, and any exemptions which they desire to make ;

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[1] Clause (*x-A*) was omitted by the Adaptation of Indian Laws Order in Council.
[2] Clause (*xi*) was substituted for the original clause, *ibid.*
[3] The words " the Provincial Government " were substituted for the word " Government ", *ibid.*
[4] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[5] This word was substituted for the words " His Majesty ", *ibid.*
[6] The words " Crown stores " were substituted for the words " Government stores ", by the Adaptation of Indian Laws Order in Council.
[7] This word was substituted for the word " Crown " by the Adaptation of Laws Order, 1950.
[8] The words " Crown property " were substituted for the words " Government property ", by the Adaptation of Indian Laws Order in Council.
[9] The words, figure and brackets " of sub-section (*1*) " were repealed by s. 4 of the Bombay District Municipal (Amendment) Act, 1904 (Bom. 4 of 1904).
[10] This sub-section and proviso were inserted by the Adaptation of Indian Laws Order in Council.
[11] This word was substituted for the word " Province " by the Adaptation of Laws Order, 1950.
[12] This word was substituted for " Government of India Act, 1935 ", *ibid.*
[13] These words were substituted for " Part III of the said Act ", *ibid.*
[14] These words were substituted for the words " the Central Legislature ", *ibid.*

(*iv*) the amount for which, or the rate at which, it is desired to make such classes liable;

[1][(*iv-a*) in the case of a rate on buildings or lands or both, the basis, for each class, of the valuation on which such rate is to be imposed;]

(*v*) all other matters, which the [2][[3][State] Government] may so require to be specified.

(*b*) When such resolution has been passed, the Municipality shall publish the form of rules so prepared with a notice in the form of Schedule A prefixed thereto.

(*c*) Any inhabitant of the municipal district objecting to the imposition of the said tax, or to the amount or rate proposed, or to the class of persons or property to be made liable thereto, or to any exemptions proposed, may within one month from the publication of the said notice send his objection in writing to the Municipality, and the Municipality shall take all such objections into consideration, or shall authorize a committee to consider the same and report thereon, and, unless they decide to abandon[4]* *the proposed tax in accordance with such objections, shall submit the same with their opinion thereon, [5][and any modifications, proposed in accordance therewith] together with the notice and rules aforesaid, in the case of a City Municipality, to the [2][[3][State] Government] and in the case of any other Municipality, to the Commissioner.

Power to sanction, modify and impose conditions.

61. The [2][[3][State] Government], or the Commissioner, as the case may be, may either refuse to sanction the rules submitted, or may return them to the Municipality for further consideration; or if no objection, or no objection which is in [6][its or his] opinion sufficient, was made to the proposed tax within one month from the publication of the said notice, may sanction the said rules either—

(*a*) without modification, or

(*b*) subject—

(*i*) to such modifications not involving an increase of the amount to be imposed, or

(*ii*) to such conditions as to the application within the municipal district to any purpose or purposes of this Act specified in such conditions, of the whole or any part of the proceeds of such tax,

as [7][it or he] deems fit.

Publication of sanctioned rules with notice.

62. All rules sanctioned under section 61 with all modifications subject to which the sanction is given, shall be published by the Municipality in the district for which they are prescribed together with a notice reciting the sanction and the date and serial number thereof, and the tax as prescribed by the rules so published shall, from a date which shall be specified in such notice and which shall not be less than one month from the publication of such notice, be imposed accordingly, and the proceeds thereof shall be applied by the Municipality in accordance with all conditions, if any, subject to which under section 61 the sanction was given:

Provided that—

(*a*) a tax leviable by the year—

(*i*) shall not come into force except on one of the following dates, viz., the first day of April—the first day of July—the first day of October—the first day of January [8][in any year], and

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[1]Sub-clause (*iv-a*) was inserted by Bom. 25 of 1954, s. 10.

[2]The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[3]This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

The words "or to modify" were deleted by Bom. 52 of 1949, s. 14 (*i*).

[5]These words were inserted, *ibid.* s. 14 (*ii*).

[6]The words "its or his" were substituted for the word "his" by the Adaptation of Indian Laws Order in Council.

[7]The words "it or he" were substituted for the word "he", *ibid.*

[8]These words were substituted for the words "in the official year on which such notice is published" by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. 3 of 1902).

(*ii*) if it comes into force on any day other than the first of April, it shall be leviable by the quarter, till the first day of April then next ensuing ;

(*b*) on or before the day on which a notice is issued under this section, the Municipality shall publish such further detailed rules as may be required, and as may have been approved by the [1][[2][State] Government] or by the Commissioner, as the case may be, under the first clause of the proviso to section 46, prescribing the mode of levying and recovering the tax therein specified, and the dates on which it or the instalments, if any, thereof, shall be payable ;

(*c*) if the levy of a tax, or of a special portion of a tax, has been sanctioned, for a fixed period only, the levy shall cease at the conclusion of that period, except so far as regards unpaid arrears which may have become due during that period.

(*2*) *Assessment of and liability to rates.*

Preparation of an assessment-list.

53. (*1*) When a rate on buildings or lands or both is imposed, the municipality shall cause an assessment-list of all buildings, or lands, or buildings and lands in the municipal district to be prepared containing.

(*a*) the name of the street or division in which the property is situated ;

(*b*) the designation of the property, either by name or by number, sufficient for identification ;

(*c*) the names of the owner and occupier, if known ;

(*d*) the annual letting value or other valuation on which the property is assessed ; and

(*e*) the amount of the tax assessed thereon.

[3][(*1A*) in assessing a tax on building or lands, where the valuation determined under clause (*d*) of sub-section (*1*) of this section is the annual letting value, a sum equal to ten per centum of the said valuation shall be deducted therefrom in lieu of all allowance for repairs or on any other account whatsoever].

Power to inspect.

(*2*) For the purpose of making such assessment on property as aforesaid, the Municipality may from time to time appoint any person or persons, whether councillors or not, and whether remunerated or not ; and any person or persons so appointed may for such purpose make an inspection of any such property :

[4][Provided that in a municipal district for which there is a Municipal Commissioner such Municipal Commissioner may make such inspection.]

Returns to be furnished.

(*3*) On the requisition of the Municipality or of such person [5][or of the Municipal Commissioner, as the case may be,] the owner or occupier of any such building or land shall, within such reasonable period as shall be specified in the requisition, be bound to furnish a true return to the best of his knowledge or belief and subscribed with his signature—

(*a*) as to the name and place of abode of the owner or occupier or of both ;

(*b*) as to the dimensions of such building or land and the annual letting value or other valuation thereof.

Publication of notice of assessment-list.

64. When the assessment-list has been completed the Municipality shall give public notice thereof, and of the place where the list or a copy thereof may be inspected ; and every person claiming to be either owner or occupier of property included in the list, and any agent of such person, shall be at liberty to inspect that list and to make extracts therefrom without charge.

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[1]The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

[2]This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[3]Sub-section (*1A*) was inserted by Bom. 35 of 1954, s. 11.

[4]This proviso was added by s. 16 (*1*) of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

[5]These words were inserted by s. 16 (*2*), *ibid.*

Public notice of time fixed for revising assessment-list.

65. (*1*) The Municipality shall at the time of the publication of such assessment-list give public notice of a time, not less than one month thereafter, when they will proceed to revise the valuation and assessment : and in all cases in which any property is for the first time assessed or the assessment is increased, they shall also give notice thereof to the owner or occupier of the property, if known.

Objections how to be made.

(*2*) All objections to the valuation and assessment shall be made to the Municipality, before the time fixed in the notice, by application in writing, stating the grounds on which the valuation and assessment are disputed, and all applications so made shall be registered in a book to be kept by the Municipality for the purpose.

Hearing of objections.

(*3*) [1][In a municipal district for which there is a Municipal Commissioner, such Municipal Commissioner, and elsewhere] the managing committee, or any committee or committees to which the Municipality delegate the powers and functions of the managing committee in this behalf, or any [2][Government officer] to whom, with the permission of the Commissioner, the Municipality delegate and they are hereby empowered so to delegate, the powers and functions of the managing committee in this behalf, shall, after allowing the applicant an opportunity of being heard in person or by agent,

(*a*) investigate and dispose of the objections,

(*b*) cause the result thereof to be noted in the book kept under sub-section (*2*), and

(*c*) cause any amendment necessary in accordance with such result to be made in the assessment-list :

[3][Provided that before any such amendment is made the reasons therefor shall be recorded in the book kept under sub-section (*2*).]

Authentication of list.

(*4*) When all objections made under this section have been disposed of, and all amendments required by sub-section (*3*) have been made in the assessment-list, the said list shall be authenticated [4][in a municipal district for which there is a Municipal Commissioner by the signature of the Municipal Commissioner, and elsewhere] by the signatures of the chairman and at least one other member of the managing committee, or if the Municipality have delegated the powers and functions of the managing committee in this behalf to any other committee or to [5][a] [2][Government officer] by the signatures of not less than two members of such committee or of the officer aforesaid, and the person or persons so authenticating the list shall certify that no valid objection has been made to the valuation and assessment contained in the list except in the cases in which amendments have been made therein.

Custody and inspection of list.

(*5*) The list so authenticated shall be deposited in the municipal office, and shall there be open for inspection during office hours to all owners and occupiers of property [6][entered] the rein, or to the agent of such persons, and a notice that it is so open shall be forthwith published.

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[1] These words were inserted by s. 17 (*1*) of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

[2] These words were substituted for the words " servant of the Crown " by the Adaptation of Laws Order, 1950.

[3] This proviso was inserted by Bom. 35 of 1954, s. 12.

[4] These words were inserted by s. 17 (*2*) of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

[5] These words were substituted for the words " an officer of Government " by the Adaptation of Indian Laws Order in Council.

[6] This word was substituted for the word " specified " by Bom. 26 of 1953, s. 8.

Authenticated list how far conclusive.

(*6*) Subject—

(*a*) to such alterations as may thereafter be made therein, under the provisions of the next following section, and

(*b*) to the result of any appeal made under section 86,

the entries in the list so authenticated and deposited [1][and the entries, if any, inserted in the said list under the provisions of section 66] shall be accepted as conclusive evidence,

(*i*) for the purposes of all municipal taxes, of the annual letting value or other valuation of all buildings and lands to which such entries respectively refer, and

(*ii*) for the purposes of any tax imposed on buildings or lands, of the amount of each such tax leviable thereon throughout the official year to which such list relates.

Amendment of assessment list.

66. (*1*) The Municipality may at any time alter the said list [2][by inserting or altering an entry in respect of any property, such entry having been omitted from or erroneously made in the assessment list through fraud, accident or mistake or in respect of any building constructed, altered, added to or reconstructed in whole or in part, where such construction, alteration, addition or reconstruction has been completed after the preparation of the assessment list,] after giving notice to any person interested in the alteration, of a time, not less than one month from the date of service of such notice, at which the alteration is to be made.

Objections how dealt with.

(*2*) Every objection made by any person interested in any such alteration, before the time fixed in the notice, and in the manner provided by sub-section (*2*) of the last preceding section, shall be dealt with in all respects as if it were an application under the said section.

Effect of amendment.

[3][(*3*) An entry or alteration made under this section shall, subject to the provisions of section 86, have the same effect as if it had been made in the case of a building constructed, altered, added to or reconstructed on the day on which such construction, alteration, addition or reconstruction was completed or on the day on which the new construction, alteration, addition or reconstruction was first occupied, whichever first occurs, and in other cases, on the earliest day in the current official year on which the circumstances justifying the entry or alteration existed; and the tax or the enhanced tax, as the case may be, shall be levied in such year in the proportion which the remainder of the year after such day bears to the whole year.]

New assessment-list need not be prepared every year.

67. (*1*) It shall not be necessary to prepare a new assessment-list every year. Subject to the condition that every part of the assessment-list shall be completely revised not less than once in every four years, the Municipality may adopt the valuation and assessment contained in the list for any year, with such alterations as may be deemed necessary, for the year immediately following.

(*2*) But the provisions of sections 64, 65 and 66 shall be applicable every year as if a new assessment-list had been completed at the commencement of the official year:

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[1] These words and figures were inserted by Bom. 26 of 1953, s. 6.

[2] This portion was substituted for the portion beginning with the words " by inserting the name of any person " and ending with the words " accident or mistake " by Bom. 26 of 1953, s. 9.

[3] Sub-section (*3*) was substituted for the original, *ibid.*

[1][67A. (*1*) Where in any year a new assessment list is prepared, or a list is revised, or the valuation and assessment contained in the list for the year immediately preceding is adopted with or without alteration, such new, revised or adopted assessment list shall be authenticated in the manner provided by section 65 at any time not later than the thirty-first day of July of the official year to which the list relates; and if it is not so authenticated, then the State Government shall appoint such person or persons as it thinks fit to prepare, revise or adopt and authenticate the assessment list, and thereupon such person or persons shall duly authenticate such list at any time not later than the last day of the official year to which such list relates and the provisions of sections 63 to 65 or section 67 shall, as far as may be, apply to the preparation, revision or adoption of the list, as the case may be, by the person or persons appointed by the State Government. Power of State Government to appoint person to prepare and authenticate list in case of default by municipality.

(*2*) Where the State Government appoints any person or persons for the purpose of preparing, revising or adopting and authenticating an assessment list under sub-section (*1*), the expenses incurred by such person or persons for such purpose and the reasonable remuneration payable to such person or persons shall be recovered by the State Government in the manner provided by section 178.]

68. Every tax imposed in the form of a rate on buildings or lands or on both, shall be leviable primarily from the actual occupier of the property upon which the said taxes are assessed, if he is the owner of the buildings or land or holds them or a building or other lease from the [2][Government] or from the Municipality, or on a building lease from any person. Otherwise the said tax shall be primarily leviable as follows, namely:— Tax from whom primarily leviable.

(*a*) if the property is let, from the lessor;

(*b*) if the property is sublet, from the superior lessor;

(*c*) if the property is unlet, from the person in whom the right to let the same vests:

Provided that on failure to recover any sum due on account of such tax from the person primarily liable, such portion of the sum may be recovered from the occupier of any part of the buildings or lands in respect of which it is due as bears to the whole amount due the same ratio which the rent annually payable by such occupier bears to the aggregate amount of rent so payable in respect for the whole of the said buildings or lands, or to the aggregate amount of the letting value thereof, if any, stated in the authenticated assessment-list, whichever of those two amounts is the greater: Recovery from occupiers.

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[1] Section 67A was inserted by Bom. 53 of 1954, s. 5.
[2] This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.

[1](*x-A*) * * * * *

Bom. XXXIV of 1935.

[2](*xi*) any other tax (not being a toll on motor vehicles and trailers, save as provided by section 14 of the Bombay Motor Vehicles Tax Act, 1935) :

Provided that—

(*a*) no tax imposed as aforesaid, other than a special sanitary cess or a water-rate, shall, without the express consent of [3][the [4][State] Government], be leviable in respect of any building or part of any building, or of any vehicle, animal or other property, belonging to [5][Government] and used solely for public purposes, and not used or intended to be used for purposes of profit, and no toll shall be leviable for the passage of troops or the conveyance of [6][[7][Government] stores] or of any other [8][[7][Government] property], or for the passage of Military or Police-officers on duty, or the passage or conveyance of any person or property in their custody ;

(*b*) no special sanitary cess shall be leviable in respect of any private latrines, premises or compounds unless and until the Municipality have—

(*i*) made provision for the cleansing thereof by manual labour, or for conducting or receiving the sewage thereof into municipal sewers, and

(*ii*) issued either severally to the persons to be charged, or generally to the inhabitants of the district or part of the district to be charged, with such cess one month's notice of the intention of the Municipality to perform such cleansing and to levy such cess ;

(*c*) the Municipality in lieu of imposing separately any two or more of the taxes described in clauses (*i*), (*vii*), (*viii*) and (*ix*) [9]* * *may impose a consolidated tax assessed as a rate on buildings or lands, or both situate within the municipal district.

[10][(2) Nothing in this section shall authorise the imposition of any tax which the [4][State] Legislature has no power to impose in the [11][State] under the [12][Constitution] :

Provided that a Municipality which immediately before the commencement of [13][the Constitution] was lawfully levying any such tax under this section as then in force, may continue to levy that tax until provision to the contrary is made by [14][Parliament].

Procedure of Municipality preliminary to imposing tax.

60. Every Municipality before imposing a tax shall observe the following preliminary procedure :—

(*a*) They shall, by resolution passed at a general meeting,

(*i*) select for the purpose one or other of the taxes specified in section 59 ;

(*ii*) prepare rules for the purposes of clause (*i*) of section 46 prescribing the tax selected ;

and shall by such resolution and in such rules specify,—

(*iii*) the class or classes of persons or of property, or of both, which the Municipality desire to make liable, and any exemptions which they desire to make ;

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1 Clause (*x-A*) was omitted by the Adaptation of Indian Laws Order in Council.
2 Clause (*xi*) was substituted for the original clause, *ibid.*
3 The words " the Provincial Government " were substituted for the word " Government ", *ibid.*
4 This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
5 This word was substituted for the words " His Majesty ", *ibid.*
6 The words " Crown stores " were substituted for the words " Government stores ", by the Adaptation of Indian Laws Order in Council.
7 This word was substituted for the word " Crown " by the Adaptation of Laws Order, 1950.
8 The words " Crown property " were substituted for the words " Government property ", by the Adaptation of Indian Laws Order in Council.
9 The words, figure and brackets " of sub-section (*1*) " were repealed by s. 4 of the Bombay District Municipal (Amendment) Act, 1904 (Bom. 4 of 1904).
10 This sub-section and proviso were inserted by the Adaptation of Indian Laws Order in Council.
11 This word was substituted for the word " Province " by the Adaptation of Laws Order, 1950.
12 This word was substituted for " Government of India Act, 1935 ", *ibid.*
13 These words were substituted for " Part III of the said Act ", *ibid.*
14 These words were substituted for the words " the Central Legislature ", *ibid.*

(*iv*) the amount for which, or the rate at which, it is desired to make such classes liable;

[1][(*iv-a*) in the case of a rate on buildings or lands or both, the basis, for each class, of the valuation on which such rate is to be imposed;]

(*v*) all other matters, which the [2][[3][State] Government] may so require to be specified.

(*b*) When such resolution has been passed, the Municipality shall publish the form of rules so prepared with a notice in the form of Schedule A prefixed thereto.

(*c*) Any inhabitant of the municipal district objecting to the imposition of the said tax, or to the amount or rate proposed, or to the class of persons or property to be made liable thereto, or to any exemptions proposed, may within one month from the publication of the said notice send his objection in writing to the Municipality, and the Municipality shall take all such objections into consideration, or shall authorize a committee to consider the same and report thereon, and, unless they decide to abandon[4]* *the proposed tax in accordance with such objections, shall submit the same with their opinion thereon, [5][and any modifications, proposed in accordance therewith] together with the notice and rules aforesaid, in the case of a City Municipality, to the [2][[3][State] Government] and in the case of any other Municipality, to the Commissioner.

Power to sanction, modify and impose conditions.

61. The [2][[3][State] Government], or the Commissioner, as the case may be, may either refuse to sanction the rules submitted, or may return them to the Municipality for further consideration; or if no objection, or no objection which is in [6][its or his] opinion sufficient, was made to the proposed tax within one month from the publication of the said notice, may sanction the said rules either—

(*a*) without modification, or

(*b*) subject—

(*i*) to such modifications not involving an increase of the amount to be imposed, or

(*ii*) to such conditions as to the application within the municipal district to any purpose or purposes of this Act specified in such conditions, of the whole or any part of the proceeds of such tax,

as [7][it or he] deems fit.

Publication of sanctioned rules with notice.

62. All rules sanctioned under section 61 with all modifications subject to which the sanction is given, shall be published by the Municipality in the district for which they are prescribed together with a notice reciting the sanction and the date and serial number thereof, and the tax as prescribed by the rules so published shall, from a date which shall be specified in such notice and which shall not be less than one month from the publication of such notice, be imposed accordingly, and the proceeds thereof shall be applied by the Municipality in accordance with all conditions, if any, subject to which under section 61 the sanction was given:

Provided that—

(*a*) a tax leviable by the year—

(*i*) shall not come into force except on one of the following dates, viz., the first day of April—the first day of July—the first day of October—the first day of January [8][in any year], and

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[1]Sub-clause (*iv-a*) was inserted by Bom. 35 of 1954, s. 10.

[2]The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[3]This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

The words "or to modify" were deleted by Bom. 52 of 1949, s. 14 (*i*).

[5]These words were inserted, *ibid.* s. 14 (*ii*).

[6]The words "its or his" were substituted for the word "his" by the Adaptation of Indian Laws Order in Council.

[7]The words "it or he" were substituted for the word "he", *ibid.*

[8]These words were substituted for the words "in the official year on which such notice is published" by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. 3 of 1902).

(*ii*) if it comes into force on any day other than the first of April, it shall be leviable by the quarter, till the first day of April then next ensuing ;

(*b*) on or before the day on which a notice is issued under this section, the Municipality shall publish such further detailed rules as may be required, and as may have been approved by the [1][2[State] Government] or by the Commissioner, as the case may be, under the first clause of the proviso to section 46, prescribing the mode of levying and recovering the tax therein specified, and the dates on which it or the instalments, if any, thereof, shall be payable ;

(*c*) if the levy of a tax, or of a special portion of a tax, has been sanctioned, for a fixed period only, the levy shall cease at the conclusion of that period, except so far as regards unpaid arrears which may have become due during that period.

(*2*) *Assessment of and liability to rates.*

Preparation of an assessment-list.

53. (*1*) When a rate on buildings or lands or both is imposed, the municipality shall cause an assessment-list of all buildings, or lands, or buildings and lands in the municipal district to be prepared containing.

(*a*) the name of the street or division in which the property is situated ;

(*b*) the designation of the property, either by name or by number, sufficient for identification ;

(*c*) the names of the owner and occupier, if known ;

(*d*) the annual letting value or other valuation on which the property is assessed ; and

(*e*) the amount of the tax assessed thereon.

[3][(*1A*) in assessing a tax on building or lands, where the valuation determined under clause (*d*) of sub-section (*1*) of this section is the annual letting value, a sum equal to ten per centum of the said valuation shall be deducted therefrom in lieu of all allowance for repairs or on any other account whatsoever].

Power to inspect.

(*2*) For the purpose of making such assessment on property as aforesaid, the Municipality may from time to time appoint any person or persons, whether councillors or not, and whether remunerated or not ; and any person or persons so appointed may for such purpose make an inspection of any such property :

[4][Provided that in a municipal district for which there is a Municipal Commissioner such Municipal Commissioner may make such inspection.]

Returns to be furnished.

(*3*) On the requisition of the Municipality or of such person [5][or of the Municipal Commissioner, as the case may be,] the owner or occupier of any such building or land shall, within such reasonable period as shall be specified in the requisition, be bound to furnish a true return to the best of his knowledge or belief and subscribed with his signature—

(*a*) as to the name and place of abode of the owner or occupier or of both ;

(*b*) as to the dimensions of such building or land and the annual letting value or other valuation thereof.

Publication of notice of assessment-list.

64. When the assessment-list has been completed the Municipality shall give public notice thereof, and of the place where the list or a copy thereof may be inspected ; and every person claiming to be either owner or occupier of property included in the list, and any agent of such person, shall be at liberty to inspect that list and to make extracts therefrom without charge.

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[1]The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

[2]This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[3]Sub-section (*1A*) was inserted by Bom. 35 of 1954, s. 11.

[4]This proviso was added by s. 16 (*1*) of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

[5]These words were inserted by s. 16 (*2*), *ibid.*

65. (*1*) The Municipality shall at the time of the publication of such assessment-list give public notice of a time, not less than one month thereafter, when they will proceed to revise the valuation and assessment : and in all cases in which any property is for the first time assessed or the assessment is increased, they shall also give notice thereof to the owner or occupier of the property, if known. Public notice of time fixed for revising assessment-list.

(*2*) All objections to the valuation and assessment shall be made to the Municipality, before the time fixed in the notice, by application in writing, stating the grounds on which the valuation and assessment are disputed, and all applications so made shall be registered in a book to be kept by the Municipality for the purpose. Objections how to be made.

(*3*) [1][In a municipal district for which there is a Municipal Commissioner, such Municipal Commissioner, and elsewhere] the managing committee, or any committee or committees to which the Municipality delegate the powers and functions of the managing committee in this behalf, or any [2][Government officer] to whom, with the permission of the Commissioner, the Municipality delegate and they are hereby empowered so to delegate, the powers and functions of the managing committee in this behalf, shall, after allowing the applicant an opportunity of being heard in person or by agent, Hearing of objections.

(*a*) investigate and dispose of the objections,

(*b*) cause the result thereof to be noted in the book kept under sub-section (*2*), and

(*c*) cause any amendment necessary in accordance with such result to be made in the assessment-list :

[3][Provided that before any such amendment is made the reasons therefor shall be recorded in the book kept under sub-section (*2*).]

(*4*) When all objections made under this section have been disposed of, and all amendments required by sub-section (*3*) have been made in the assessment-list, the said list shall be authenticated [4][in a municipal district for which there is a Municipal Commissioner by the signature of the Municipal Commissioner, and elsewhere] by the signatures of the chairman and at least one other member of the managing committee, or if the Municipality have delegated the powers and functions of the managing committee in this behalf to any other committee or to [5][a] [2][Government officer] by the signatures of not less than two members of such committee or of the officer aforesaid, and the person or persons so authenticating the list shall certify that no valid objection has been made to the valuation and assessment contained in the list except in the cases in which amendments have been made therein. Authentication of list.

(*5*) The list so authenticated shall be deposited in the municipal office, and shall there be open for inspection during office hours to all owners and occupiers of property [6][entered] the rein, or to the agent of such persons, and a notice that it is so open shall be forthwith published. Custody and inspection of list.

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[1] These words were inserted by s. 17 (*1*) of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

[2] These words were substituted for the words " servant of the Crown " by the Adaptation of Laws Order, 1950.

[3] This proviso was inserted by Bom. 35 of 1954, s. 12.

[4] These words were inserted by s. 17 (*2*) of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

[5] These words were substituted for the words " an officer of Government " by the Adaptation of Indian Laws Order in Council.

[6] This word was substituted for the word " specified " by Bom. 26 of 1953, s. 8.

Authenticated list how far conclusive.

(*6*) Subject—

(*a*) to such alterations as may thereafter be made therein, under the provisions of the next following section, and

(*b*) to the result of any appeal made under section 86,

the entries in the list so authenticated and deposited [1][and the entries, if any, inserted in the said list under the provisions of section 66] shall be accepted as conclusive evidence,

(*i*) for the purposes of all municipal taxes, of the annual letting value or other valuation of all buildings and lands to which such entries respectively refer, and

(*ii*) for the purposes of any tax imposed on buildings or lands, of the amount of each such tax leviable thereon throughout the official year to which such list relates.

Amendment of assessment list.

66. (*1*) The Municipality may at any time alter the said list [2][by inserting or altering an entry in respect of any property, such entry having been omitted from or erroneously made in the assessment list through fraud, accident or mistake or in respect of any building constructed, altered, added to or reconstructed in whole or in part, where such construction, alteration, addition or reconstruction has been completed after the preparation of the assessment list,] after giving notice to any person interested in the alteration, of a time, not less than one month from the date of service of such notice, at which the alteration is to be made.

Objections how dealt with.

(*2*) Every objection made by any person interested in any such alteration, before the time fixed in the notice, and in the manner provided by sub-section (*2*) of the last preceding section, shall be dealt with in all respects as if it were an application under the said section.

Effect of amendment.

[3][(*3*) An entry or alteration made under this section shall, subject to the provisions of section 86, have the same effect as if it had been made in the case of a building constructed, altered, added to or reconstructed on the day on which such construction, alteration, addition or reconstruction was completed or on the day on which the new construction, alteration, addition or reconstruction was first occupied, whichever first occurs, and in other cases, on the earliest day in the current official year on which the circumstances justifying the entry or alteration existed; and the tax or the enhanced tax, as the case may be, shall be levied in such year in the proportion which the remainder of the year after such day bears to the whole year.]

New assessment-list need not be prepared every year.

67. (*1*) It shall not be necessary to prepare a new assessment-list every year. Subject to the condition that every part of the assessment-list shall be completely revised not less than once in every four years, the Municipality may adopt the valuation and assessment contained in the list for any year, with such alterations as may be deemed necessary, for the year immediately following.

(*2*) But the provisions of sections 64, 65 and 66 shall be applicable every year as if a new assessment-list had been completed at the commencement of the official year:

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[1] These words and figures were inserted by Bom. 26 of 1953, s. 6.

[2] This portion was substituted for the portion beginning with the words " by inserting the name of any person " and ending with the words " accident or mistake " by Bom. 26 of 1953, s. 9.

[3] Sub-section (*3*) was substituted for the original, *ibid.*

Power of State Government to appoint person to prepare and authenticate list in case of default by municipality.

[1][67A. (*1*) Where in any year a new assessment list is prepared, or a list is revised, or the valuation and assessment contained in the list for the year immediately preceding is adopted with or without alteration, such new, revised or adopted assessment list shall be authenticated in the manner provided by section 65 at any time not later than the thirty-first day of July of the official year to which the list relates; and if it is not so authenticated, then the State Government shall appoint such person or persons as it thinks fit to prepare, revise or adopt and authenticate the assessment list, and thereupon such person or persons shall duly authenticate such list at any time not later than the last day of the official year to which such list relates and the provisions of sections 63 to 65 or section 67 shall, as far as may be, apply to the preparation, revision or adoption of the list, as the case may be, by the person or persons appointed by the State Government.

(*2*) Where the State Government appoints any person or persons for the purpose of preparing, revising or adopting and authenticating an assessment list under sub-section (*1*), the expenses incurred by such person or persons for such purpose and the reasonable remuneration payable to such person or persons shall be recovered by the State Government in the manner provided by section 178.]

Tax from whom primarily leviable.

68. Every tax imposed in the form of a rate on buildings or lands or on both, shall be leviable primarily from the actual occupier of the property upon which the said taxes are assessed, if he is the owner of the buildings or land or holds them or a building or other lease from the [2][Government] or from the Municipality, or on a building lease from any person. Otherwise the said tax shall be primarily leviable as follows, namely :—

(*a*) if the property is let, from the lessor;

(*b*) if the property is sublet, from the superior lessor;

(*c*) if the property is unlet, from the person in whom the right to let the same vests :

Recovery from occupiers.

Provided that on failure to recover any sum due on account of such tax from the person primarily liable, such portion of the sum may be recovered from the occupier of any part of the buildings or lands in respect of which it is due as bears to the whole amount due the same ratio which the rent annually payable by such occupier bears to the aggregate amount of rent so payable in respect for the whole of the said buildings or lands, or to the aggregate amount of the letting value thereof, if any, stated in the authenticated assessment-list, whichever of those two amounts is the greater :

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[1] Section 67A was inserted by Bom. 53 of 1954, s. 5.
[2] This word was substituted for the word " Crown " by the Adaptation of Laws Order, 1950.

Provided further that for any sum paid by, or recovered from, any occupier who is not primarily liable under this section, he shall be entitled to credit in account with the person primarily liable for the payment of that sum. Remedy of occupier in such case.

69. (*1*) When any building or land which is assessed to a rate payable by the year, or in respect of which a special sanitary cess is payable by the year or by instalments, has remained vacant and unproductive of rent throughout the year, or throughout the period in respect of which any such instalment is payable, the Municipality shall remit or refund [1][not more than one half] of the amount of the rate, or of the cess or instalment of the cess, as the case may be : Remission of tax in case of vacancies when obligatory.

Provided that no such remission shall be granted unless notice in writing of the fact of the building or land being vacant and unproductive of rent has been given to the Municipality, and that no remission or refund shall take effect for any period previous to the day of the delivery of such notice.

(*2*) When any such building or land as aforesaid, When discretional.

(*a*) has been vacant and unproductive of rent for any period of not less than [2][ninety] consecutive days, or

(*b*) consists of separate tenements one or more of which has or have been vacant and unproductive of rent for any such period as aforesaid, or

(*c*) is wholly or in great part demolished or destroyed by fire or otherwise deprived of value,

the Municipality may remit or refund such portion, if any, of the rate or instalment as they may think equitable.

(*3*) The burden of proving the facts entitling any person to claim relief under this section shall be upon him. Burden of proof on claimant.

(*4*) For the purposes of this section [3][(*a*) a dwelling-house within the limits of a municipality notified by [4][the [5][State] Government] as a hill-station municipality shall, if otherwise unoccupied, be deemed to be vacant notwithstanding the fact that it contains the furniture habitually used in it ; and (*b*)] a building or land shall be deemed to be productive of rent if let to a tenant who has a continuing right of occupation thereof, whether it is actually occupied by such tenant or not. Explanatory clause.

(*3*) *Power to charge fees.*

70. (*1*) When any licence is granted by the Municipality under this Act, or when permission is given by them for making any temporary erection or for putting up any projection, or for the temporary occupation of any public street or other land vested in the Municipality, the Municipality may charge a fee for such licence or permission : Municipality may charge fees for certain licences.

[6][Provided that when permission is given for putting up a projection, the Municipality may charge every year a recurring fee until the projection is removed.]

(*2*) The Municipality may also charge such fees as may be fixed by by-laws under clause (*a*) of sub-section (*1*) of section 48 for the use of any such places mentioned in that sub-section as belong to the Municipality. Market and other fees.

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[1] These words were substituted for the words " not less than two-thirds " by Bom. 35 of 1954, s. 13, (*1*).

[2] This word was substituted for the word " sixty " *ibid*, s. 13 (*2*).

[3] These words, letters and brackets were inserted by Bom. 12 of 1931, s. 2 (*vi*).

[4] The words " the Provincial Government " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

[5] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[6] This proviso was inserted by Bom. 52 of 1949, s. 15.

(4) Special provisions relating to certain taxes.

Fixed charges and agreements for payment in lieu of taxes for water supplied.

71. (*1*) The Municipality may, instead of imposing a water-rate or, in individual cases, of levying a rate imposed in respect of the supply of water belonging to the Municipality to, or for use in connection with, any private lands or buildings,

(*a*) fix at rates not exceeding such as shall be specified in the rules in force under section 46, charges for such supply according to the quantity used, as ascertained by measurement,

(*b*) arrange with any person, on his application, to supply on payment, periodical or otherwise, water belonging to the Municipality in such quantities or for such purposes, whether domestic, ornamental, or irrigational or for trade, manufacture or otherwise, on such terms and subject to such conditions as they shall fix by agreement with such person :

Provided that—

(*a*) the meters, connection-pipes and all other works necessary for and incidental to such supplies, and all future repairs, extensions and alterations of such works shall be under the control of the Municipality, and the expense thereof shall, so far as is not inconsistent with the rules or by-laws of the Municipality, be defrayed by the persons liable in respect of such supplies, and

(*b*) all such supplies of water shall be, and shall be deemed to have been granted, subject to all such conditions as to the limit or stoppage thereof, and as to the prevention of waste or misuse, as are prescribed in the by-laws for the time being in force under section 48.

Power to fix a special rate in lieu of special sanitary cess.

(*2*) When the Municipality have made provision for the cleansing of any factory, hotel, club or group of buildings or lands used for any one purpose and under one management, they may, instead of levying in respect thereof any special sanitary cess imposed under this Chapter, fix a special rate and the dates and other conditions for periodical payments thereof, which shall be determined either,

(*i*) in accordance with the rules for the time being in force under section 46, or

(*ii*) by written agreement with the person who would have been otherwise liable for the cess, provided that, in fixing the amount, proper regard be had to the probable cost to the Municipality of the service to be rendered.

Power to compound tax on vehicles or animals.

(*3*) When the Municipality have imposed a tax on vehicles or animals kept for use within the municipal district they may compound with the keeper of any livery-stable or of horses or vehicles kept for sale and hire, for the payment of a lump sum, for any period not exceeding one year at a time, in lieu of any amount which such keeper would otherwise have been liable to pay on account of the tax imposed as aforesaid.

Recovery of sums claimed under this section.

(*4*) Every sum claimed by the Municipality as due under sub-section (*1*) as a charge fixed by agreement or otherwise on account of water-supply, or as expenses to be defrayed such as are referred to in that sub-section, or as a special rate under sub-section (*2*) or as a lump sum payable under sub-section (*3*), shall for the purposes of Chapter VIII be deemed to be, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under the said Chapter :

Provided that nothing in this section shall affect the right or power of the Municipality to contract with any person to supply for use beyond the limits of

the municipal district, at such rates and on such conditions as the Municipality may think fit, any quantity of water belonging to the Municipality but not required for the purposes of this Act.

Taxes on pilgrims may be assigned in part to local boards.

72. If any tax imposed under this Act is a tax on pilgrims resorting periodically to a shrine within the limits of a municipal district, the Commissioner may require the Municipality of such district to assign and pay to the district local board, or to the taluka local board having authority in the taluka in which such municipal district is situate, or partly to the said district local board and partly to the said taluka local board, such portion of the total collections on account of such tax as he shall deem fit; and the portion so assigned shall be expended by the said board or boards, within the areas respectively under their authority, on works conducive to the health, convenience and safety of the said pilgrims.

Power of Provincial Government to suspend levy of objectionable taxes.

73. If it shall at any time appear to the [1][Provincial Government], on complaint made or otherwise, that any tax, leviable by a Municipality, is unfair in its incidence, or that the levy thereof, or of any part thereof, is obnoxious to the interest of the general public, [2][it] may require the said Municipality, within such period as [2][it] shall fix in this behalf, to take measures for removing any objection which appears to [3][it] to exist to the said tax, and if, within the period so fixed, such requirement shall not be carried into effect to the satisfaction of the [1][Provincial Government], [2][it] may, by notification in the [4][*Official Gazette*], suspend the levy of such tax, or of such part thereof, until such time as the objection thereto shall be removed.

The [1][Provincial Government] may at any time, by a like notification, rescind any such suspension.

Power of Provincial Government to require municipalities to impose taxes.

74. Whenever it appears to the [1][Provincial Government] that the balance of the municipal fund of any Municipality is insufficient for meeting the expenditure incurred under section 175 or for the performance of any duties in respect of which they shall have been declared under section 178 to have committed default, the [1][Provincial Government] may by notification require the Municipality to impose, within the municipal district, any such tax specified in the notification as may be imposed under section 59 if no such tax is at the time imposed therein, or to enhance any existing tax in such manner or to such extent as the [1][Provincial Government] considers fit, and the Municipality shall forthwith proceed to impose or enhance in accordance with the requisition such tax under the provisions of this Chapter, as if a resolution of the Municipality had been passed for the purpose under section 60:

Provided that—

(*a*) the [1][Provincial Government] shall take into consideration any objection which the Municipality or any inhabitant of the municipal district may make against the imposition or enhancement of such tax,

(*b*) it shall not be lawful for the Municipality to abandon or modify or to abolish such tax when imposed, and

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] The word "it" was substituted for the word "he", *ibid.*

[3] The word "it" was ubstituted for the word "him", *ibid.*

[4] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

(*c*) the [1][Provincial Government] may at any time cancel or modify any requisition made by [2][it] under this [3][section], and the levy of the tax or the enhancement, except as to arrears theretofore accrued due, shall thereupon cease or be modified accordingly.

(*5*) *Octroi and Tolls.*

Octroi by-laws to be submitted with proposal for imposition of octroi.

75. Every Municipality, when submitting for sanction a proposal for the imposition of octroi, shall submit therewith for sanction a draft of by-laws for the purposes of clause (*j*) of section 48, after observing the requirements of sub-sections (*2*) and (*3*) of that section.

Power to examine articles liable to octroi.

[4]**76.** (*1*) Every person bringing into, or receiving from beyond, the octroi limits of a municipal district any article on which octroi is payable shall, when required by an officer authorized in this behalf by the Municipality, and so far as may be necessary for ascertaining the amount of tax chargeable,

(*a*) permit that officer to inspect, examine and weigh, and otherwise deal with the article; and

(*b*) communicate to that officer any information and exhibit to him any bill, invoice or document of a like nature, which he may possess relating to the article.

Power to search where octroi is leviable.

(*2*) If any person bringing into, or receiving from beyond, the octroi limits of a municipal district in which octroi is leviable any conveyance or package shall refuse, on the demand of an officer authorized by the municipality in this behalf, to permit the officer to inspect the contents of the conveyance or package for the purpose of ascertaining whether it contains any articles in respect of which octroi is payable, the officer may cause the conveyance or package to be taken without unnecessary delay before a Magistrate or such officer of the Municipality as the [1][Provincial Government] appoints in this behalf by name or office, who shall cause the inspection to be made in his presence.

Presentation of bills for octroi.

77. (*1*) Every officer demanding octroi by the authority of the Municipality shall tender to every person introducing or receiving any article on which the tax is claimed, a bill specifying the article taxable, the amount claimed, and the rate at which the tax is calculated.

Penalty for evasion of octroi.

(*2*) If goods passing into a municipal district are liable to the payment of octroi, then every person who, with the intention to defraud the Municipality, causes or abets the introduction of, or himself introduces or attempts to introduce within the octroi limits of the said district, any such goods upon which payment of the octroi due on such introduction has neither been made nor tendered, shall be punishable with fine which may extend to ten times the value of such octroi or to fifty rupees, whichever may be greater.

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] The word "it" was substituted for the word "him", *ibid.*

[3] This word was substituted for the word "sub-section" by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. 3 of 1902).

[4] Sections 76, 77, 79, 80 and Schedule D have been extended to the Cantonment of Ahmednagar subject to certain restrictions and modifications, *see Gazette of India*, 1905, Pt. I, p. 19.

Tables of tolls to be shown on demand.

78. Every Municipality imposing any toll under this Act shall cause to be kept, at each place where such toll is to be collected, a table in the vernacular language of the district, showing the amounts leviable in all cases provided for in the rules, including the terms, if any, on which the liability to pay such tolls may be compounded by periodical payments, and it shall be the duty of every person authorized to demand payment of a toll to show such table on the request of any person on whom such demand is made.

Power to seize vehicle or animal on non-payment of octroi or toll.

79. (*1*) In the case of non-payment on demand of any octroi or of any toll leviable by a Municipality, the person appointed to collect such octroi or toll may seize any article on which the octroi is chargeable or any vehicle or animal on which the toll is chargeable, or any part of its burden, which is of sufficient value to satisfy the demand, and may detain the same. He shall thereupon give the person in possession of the vehicle, animal or article seized, a list of the property together with a written notice in the form of Schedule D that the said property will be sold as shall be specified in such notice.

Power to sell property seized at once.

(*2*) When any article seized is subject to speedy and natural decay, or when the expense of keeping it together with the amount of the octroi or toll chargeable is likely to exceed its value, the person seizing such article may inform the person in whose possession it was that it will be sold at once, and shall sell it or cause it to be sold accordingly unless the amount of octroi or toll demanded be forthwith paid.

Release of property on payment.

(*3*) If at any time before the sale has begun, the person whose property has been so seized tenders at the municipal office the amount of all expenses incurred, and of the octroi or toll payable, the Municipality shall forthwith release the property seized.

Sale.

(*4*) If no such tender is made, the property may be sold, and the proceeds of such sale shall be applied in payment of such octroi or toll and the expenses incidental to the seizure, detention and sale.

Surplus how dealt with.

(*5*) If surplus, if any, of the sale-proceeds shall be credited to the municipal fund, and may, on application made to the Municipality in writing within six months next after the sale, be paid to the person in whose possession the property was when seized, and, if no such application is made, shall be the property of the Municipality.

Power to keep account current with firm or public body in lieu of levying octroi on introduction of goods.

80. The Municipality, if they think fit, instead of requiring payment of octroi, due from any mercantile firm or public body, to be made at the time when the articles in respect of which it is leviable are introduced within the octroi limits of the municipal district, may at any time direct that an account-current shall be kept on behalf of the Municipality of the octroi so due from any such firm or body as the Municipality specify in this behalf. Every such account shall be settled at intervals not exceeding one month, and such firm or public body shall make such deposit or furnish such security as the Municipality or any committee or officer authorized by them in this behalf shall consider sufficient to cover the amount which may at any time be due from such firm or body in respect of such dues. Every amount so due at the expiry of any such interval shall, for the purposes of Chapter VIII, be deemed to be, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under the said Chapter.

Collection of octroi by one public body on behalf of others.

81. When any agreement such as is referred to in clause (*b*) of section 39 has been entered into, such one of the bodies entering into the agreement as by the terms thereof shall be specified in this behalf, shall have the same power to establish such octroi limits and octroi stations as that body may deem necessary, for the entire area in which the octroi is to be collected, and shall have the same power of collecting octroi on animals or goods or both brought within the limits so established, and the provisions of [1][the Act under which that body is constituted] relating to octroi shall apply in the same way as if the limits so established were wholly comprised within the area subject to the control of [2][that body], and the collections made and the costs thereby incurred shall, subject to the provisions of section 39, be divided between the funds respectively subject to the control of the bodies so entering into the agreement, in such proportions as shall have been determined in the said agreement

Farming of tolls.

[3][**81A.** (*1*) It shall be lawful for the Municipality to lease the levy of any toll that may be imposed under this Act by public auction or private contract :

Provided that the leasee shall give security for the due fulfilment of the conditions of the lease.

Person employed by lessee of toll to have power of seizure.

(*2*) Where any toll has been leased under this section any person employed by the lessee to collect such toll shall, subject to the conditions of the lease, have the powers referred to in sub-sections (*1*) and (*2*) of section 79 :

Provided that no article distrained may be sold except under the orders of the Municipality.]

CHAPTER VIII.

Recovery of Municipal Claims.

Presentation of bill for taxes.

82. (*1*) When any amount,

(*a*) which, by or under any provisions of this Act, is declared to be recoverable in the manner provided by this Chapter, or

(*b*) which, not being leviable under sub-section (*1*) of section 79, or payable on demand on account of an octroi or a toll, is claimable as an amount or instalment on account of any other tax which now is imposed or hereafter may be imposed in any municipal district,

hall have become due, the Municipality shall, with the least practicable delay, cause so be presented to the person liable for the payment thereof a bill for the sums tclaimed as due.

Contents of bill.

(*2*) Every such bill shall specify—

(*a*) the period for which, and

(*b*) the property, occupation or thing in respect of which,

the sum is claimed, and shall also give notice of—

(*i*) the liability incurred in default of payment, and of

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[1] These words were substituted for the words "this Act" by Bom. 14 of 1934, s. 2 (*2*) (*i*).

[2] The words "that body" were substituted for the words "the body by which they are so established", *ibid*,, s. 2 (*2*) (*ii*).

[3] Section 81A was inserted by s. 18 of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

(*ii*) the time within which an appeal may be preferred as hereinafter provided against such claim.

[1][(*3*) If the person to whom a bill has been presented as aforesaid does not, within fifteen days from the presentation thereof, either—

(*a*) pay the sum claimed as due in the bill, or

(*b*) show cause to the satisfaction of the municipality or of such officer as the municipality by rule may appoint in this behalf, or in a City Municipality of the Chief Officer, if any, why he should not pay the same, or

(*c*) prefer an appeal in accordance with the provisions of section 86 against the claim,

the municipality may cause to be served upon the person liable for the payment of the said sum a notice of demand in the form of Schedule B, or to the like effect.]

83. [2][(*1*) If the person on whom a notice of demand has been served under sub-section (*3*) of section 82 does not, within fifteen days, from the service of such notice, pay the sum demanded in the notice, such sum with all costs of the recovery may be levied under a warrant caused to be issued by the municipality in the form of Schedule C or to the like effect by the distress and sale of the moveable property or attachment and sale of the immovable property of the defaulter.]

Warrant by whom to be signed.

(*2*) Every warrant issued under this section shall be signed by the president of the Municipality causing the same to be issued, [3][or by the Municipal Commissioner, if any], or in the case of a City Municipality by the chairman of the managing committee, or by an officer to whom the Municipality have delegated their powers under section 37 or by the chief officer, if any.

To whom warrant should be addressed.

[4][(*2A*) (*a*) Where the property is in the municipal district, the warrant shall be addressed to an officer of the municipality ;

(*b*) where the property is in another municipal district or in a municipal borough, the warrant shall be addressed to the Vice-President of the municipality or to the Chief Officer of the municipal borough, as the case may be ;

(*c*) where the property is within the limits of a Corporation constituted under the Bombay Provincial Municipal Corporations Act, 1949, the warrant shall be addressed to the Municipal Commissioner of such Corporation ;

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(*d*) where the property is in a cantonment, the warrant shall be addressed to the Executive Officer of the cantonment ;

(*e*) where the property is not within limits of such Corporation or a municipal borough, municipal district or cantonment, the warrant shall be addressed to a Government Officer not lower in rank than a Mahalkari ;

(*f*) where the property is in Greater Bombay, the warrant shall be addressed to the Registrar of the Court of Small Causes of Bombay :

Provided that such Chief Officer, Vice-President, Municipal Commissioner, Executive Officer, Government Officer or Registrar may endorse such warrant to a subordinate Officer.]

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[1] Sub-section (*3*) was substituted for the original by Bom. 52 of 1949, s. 16.
[2] Sub-section (*1*) was substituted for the original, *ibid*, s. 17(*i*).
[3] These words were inserted by s. 19 (*1*) of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).
[4] Sub-section (*2A*) was substituted for the original by Bom. 26 of 1953, s. 10.

Power of entry under special order.

(*3*) It shall be lawful for [1][any officer] to whom a warrant issued under sub-section (*2*) is addressed, if the warrant contains a special order authorizing him in this behalf, but not otherwise, to break open, at any time between sunrise and sunset, any outer or inner door or window of a building, in order to make the distress directed in the warrant, if he has reasonable grounds for believing that such building contains property which is liable to seizure under the warrant, and if after notifying his authority and purpose and duly demanding admittance, he cannot otherwise obtain admittance : Provided that such officer shall not enter or break open the door of any apartment appropriated for women, until he has given three hours' notice of his intention and has given such women an opportunity to remove.

Warrant how to be executed.

(*4*) It shall also be lawful for such officer to distrain, wherever it may be found, any moveable property [2][or attach any immovable property] of the person therein named as defaulter, subject to the following conditions, exceptions and exemptions, namely :—

(*a*) The following property shall not be distrained :—

(*i*) the necessary wearing apparel and bedding of the defaulter, his wife and children,

(*ii*) the tools of artizans,

(*iii*) when the defaulter is an agriculturist, his implements of husbandry, seed-grain, and such cattle as may be necessary to enable the defaulter to earn his livelihood.

(*b*) The distress shall not be excessive, that is to say, the property distrained shall be as nearly as possible proportionate in value to the amount recoverable under the warrant, and if any articles have been distrained which, in the opinion of a person authorized by or under sub-section (*2*) to sign a warrant, should not have been so distrained they shall forthwith be returned.

(*c*) The officer shall on [3][distraining or attaching] the property forthwith make an inventory thereof, and [4]* * give to the person in possession thereof at the time of [5][distraint or attachment] a written notice in the form of Schedule D that the said property will be sold as shall be specified in such notice.

[6][(*d*) (*i*) When the property is immovable, the attachment shall be made by an order prohibiting the defaulter from transferring or charging the property in any way, and all persons from taking any benefit from such transfer or charge ;

(*ii*) the order shall be proclaimed at some place on or adjacent to the property by beat of drum or other customary mode, and a copy of the order shall be fixed on a conspicuous part of the property and then upon a conspicuous part of the municipal office, and also, when the property is land paying revenue to the [7][State] Government, in the office of the Collector of the district in which the land is situate].

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[1] These words were substituted for the words "any municipal officer" by s. 19 (*3*) of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

[2] These words were inserted by Bom. 52 of 1949, s. 17 (*ii*) (*a*).

[3] These words were substituted for the word "seizing", *ibid*, s. 17 (*ii*) (*b*) (*i*).

[4] The words "shall before removing the same" were deleted, *ibid*, s. 17 (*ii*) (*b*) (*ii*).

[5] These words were substituted for the word "seizure", *ibid*, s. 17 (*ii*) (*b*) (*iii*).

[6] This clause was inserted, *ibid*, s. 17 (*ii*) (*c*).

[7] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[1][(e) Any transfer of, or charge on, the property attached or of any interest therein made without the written permission of the municipality shall be void as against all claims of the municipality enforceable under the attachment.]

[2][(5) If the [3][State] Government is satisfied on a complaint made to it or otherwise and after making such enquiries as it considers necessary that a municipality has abused its power under this section of attachment and sale of the immovable property of the defaulter, the [3][State] Government may by order direct that for such time as may be specified in such order it shall not be competent for the municipality to exercise that power].

84. (*1*) When the property seized is subject to speedy and natural decay, or when the expense of keeping it in custody together with the amount to be levied is likely to exceed its value, the president or chairman or officer by whom the warrant was signed shall at once give notice to the person in whose possession the property was when seized to the effect that it will be sold at once, and shall sell it accordingly unless the amount named in the warrant be forthwith paid. Sale of goods distrained.

[4][(2) If the property seized is not sold at once under sub-section (*1*) the property distrained or a sufficient portion thereof or if the property attached is immovable property a sufficient portion thereof may, unless the warrant is suspended by the person who signed it or the sum due by the defaulter together with all costs incidental to the notice, warrant, and distress or attachment and detention of the property, is paid, be, on the expiry of the time specified in the notice served by the officer executing the warrant, sold by public auction under the orders of the municipality, and the proceeds or such part thereof as shall be requisite, shall be applied firstly in discharge of any sum due to the [3][State] Government in respect of such property and secondly in discharge of the sum due and of all such incidental costs as aforesaid. Where the sum due together with costs is paid by the defaulter as aforesaid, the attachment, if any, of immovable property shall be deemed to have been removed. Sales of immovable property under the sub-section shall be held in the manner laid down in the rules framed in that behalf.

(*2A*) After sale of the immovable property by auction as aforesaid, the President shall put the person declared to be the purchaser in possession of the same and shall grant him a certificate to the effect that he has purchased the property to which the certificate refers.

(*2B*) It shall be lawful for the municipality to offer a nominal bid in the case of any immovable property put up for auction, provided the previous approval of the Collector is obtained to such bidding.]

(*3*) The surplus, if any, shall be forthwith credited to the municipal fund, notice of such credit being given at the same time to the person from whose possession the property was taken, but if the same be claimed by written application to the Surplus, if any, how dealt with.

[1] This clause was inserted by Bom. 52 of 1949, s. 17 (*ii*) (*c*).
[2] Sub-section (5) was added, *ibid*, s. 17 (*iii*).
[3] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[4] Sub-sections (2), (2-*A*) and (*2B*) were substituted for the original sub-section (2) by Bom. 52 of 1949, s. 18.

Municipality within one year from the date of the [1][notice] a refund thereof shall be made to such person. Any sum not claimed within one year from the [2][date] of such notice shall be the property of the Municipality.

Distraint and sale outside the district.

[3][**84A.** Where the warrant is addressed outside the municipal district the authority issuing the warrant may by endorsement direct the officer [4][or Registrar of the Court of Small Causes of Bombay] to whom the warrant is addressed to sell the property distrained [5][or attached] and in such case it shall be lawful for such officer [4][or Registrar] to sell the property and to do all things incidental to the sale and the foregoing provisions shall be modified accordingly. [6][Such officer or Registrar shall, after deducting all costs of recovery incurred by him, remit the amount recovered under the warrant to the authority by whom it was issued].]

Fees and costs chargeable.

85. Fees for—

(*a*) every notice issued under sub-section (*3*) of section 82,

[7][(*b*) every warrant issued under sub-section (*1*) of section 83 or distress [8][or attachment] made under sub-section (*4*) of the said section, and]

(*c*) the costs of maintaining any live stock seized under [9][sub-section (*4*) of section 83],

shall be chargeable at the rates respectively specified in such behalf in the rules of the Municipality, and shall be included in the costs of recovery to be levied under [10][section 83].

Appeals to Magistrates.

[11][**86.** (*1*) Appeals against [12][any claim included in a bill presented under sub-section (*1*) of section 82] may be made to any [13][Judicial Magistrates or Bench of such Magistrates] by whom under the directions of the [14][Sessions Judge], such class of cases is to be tried.

But no such appeal [15][shall be entertained] unless—

(*a*) the appeal is brought within fifteen days next after [16][presentation of the bill] complained of; and

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[1] This word was substituted for the word " sale " by s. 6 (*a*) of the Bombay District Municipal (Amendment) Act, 1904 (Bom. 4 of 1904).

[2] This word was substituted for the word " sale " by s. 6 (*b*), *ibid.*

[3] Section 84A was inserted by s. 20 of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

[4] These words were inserted by s. 4 (*a*) of the Bombay District Municipal (Amendment) Act, 1920 (Bom. 3 of 1920).

[5] These words were inserted by Bom. 40 of 1940, s. 4.

[6] These words were added by Bom. 3 of 1920, s. 4 (*b*).

[7] Clause (*b*) was substituted for the original clause by Bom. 12 of 1941, s. 2 (*vii*) (*a*).

[8] These words were inserted by Bom. 40 of 1950, s. 5.

[9] These words, brackets and figures were substituted for the words " the said sub-section ", by Bom. 12 of 1931, s. 2 (*vii*) (*b*).

[10] This word and these figures were substituted for the word and figures " section 84 " by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. 3 of 1902).

[11] Section 86 was renumbered as section 86 (*1*) by Bom. 52 of 1949, s. 19(*1*).

[12] These words were substituted for the words " any notice of demand issued under sub-section (*3*) of section 82 " *ibid.*, s.19 (*1*) (*i*).

[13] These words were substituted for the words " Magistrate or Bench of Magistrates " by Bom. 8 of 1954, s. 2, Schedule—Part III.

[14] These words were substituted for the words " State Government or of the District Magistrate " *ibid.*

[15] These words were substituted for the words " shall be heard and determined " by Bom. 35 1954, s. 14.

[16] These words were substituted for the words " Service of the notice of demand " Bom. 2 of 1949, s. 19 (*1*) (*ii*).

(*b*) an application in writing, stating the ground on which the claim of the Municipality is disputed, has been made to the Municipality as follows, that is to say :

(*i*) in the case of a rate on buildings or lands, within the time fixed in the notice given under section 65 or 66 of the assessment or alteration thereof, according to which the bill is prepared,

[1]* * * * * and

(*c*) the amount claimed from the appellant has been deposited by him in the municipal office.

[2][(*2*) The decision of the Magistrate or Bench of Magistrates in any appeal made under sub-section (*1*) shall, at the instance of either party, be subject to revision by the Court to which appeals against the decision of such Magistrate or Bench ordinarily lie.]

[3][**86A.** (*1*) Every entry in the assessment list made under the provisions of this Act against which no objection is made as hereinbefore provided, and the amount of every sum claimed from any person under this Act on account of any tax, if no appeal therefrom is made as hereinbefore provided, and subject to the provisions of sub-section (*2*) of section 86, the decision of the Magistrate or Bench of Magistrates in any appeal, shall be final. Entries in assessment list and taxes and decisions to be final.

(*2*) Effect shall be given by the municipality to every decision of the said Magistrate or Bench of Magistrates in any appeal or any decision in revision in such appeal against any such entry or tax.]

87. All sums due on account of any tax imposed in the form of a rate on lands or buildings or on both, mentioned in section 68, shall, subject to prior payment of land-revenue, if any, due to [4][His Majesty] thereupon, be a first charge upon the building or land, in respect of which such tax is leviable, and upon the moveable property, if any, found within or upon such building or land, and belonging to the person liable for such tax or taxes : Liability of land, buildings, etc., for rates.

Provided that no arrears of any such tax shall be recovered from any occupier who is not the owner, if it has been due for more than one year or for a period during which such occupier was not in occupation.

88. The [5][Provincial Government] may at any time by notification suspend the operation of sections 83 and 84 in any municipal district, in which there is not a City Municipality, and from such date as shall be fixed in this behalf in the Suspension of power to recover by distress and sale.

[1] The portion beginning with the brackets and figures "(*ii*)" and ending with the words "such bill" were deleted by Bom. 52 of 1949, s. 19 (*1*) (*iii*).

[2] Sub-section (*2*) was added *ibid*, s. 19 (*2*).

[3] Section 86A was inserted, *ibid*, s. 20.

[4] These words were substituted for the words "the Secretary of State for India in Council" by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. 3 of 1902).

[5] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

notification, every amount due on account of any tax theretofore recoverable under the said sections, shall be recoverable on application to a Magistrate, in the manner provided in sub-section (2) of section 161 for the recovery of such fines as are therein referred to, and not otherwise.

Receipts to be given for all payments.

89. For all sums paid on account of any tax under this Act, a receipt stating the amount, and the tax on account of which it has been paid, shall be tendered by the person receiving the same.

CHAPTER IX.

MUNICIPAL POWERS AND OFFENCES.

(1) *Powers in respect of streets.*

Power regarding streets, etc.

90. (1) It shall be lawful for the Municipality to lay out and make new public streets, and to construct tunnels and other works subsidiary to the same, and to widen, open, enlarge or otherwise improve any such streets, and to turn, divert, discontinue or stop up any such streets, and, subject to the provisions of sub-section (2) of section 40 [1][to lease or sell] any such land, theretofore used or acquired by the Municipality for the purposes of such streets as may not be required for any public street or for any other purposes of this Act.

(2) In laying out or making or in turning, diverting, widening, opening enlarging, or otherwise improving any public street, in addition to the land required for the carriage-way and footways and drains thereof, the Municipality may purchase the land necessary for the houses and buildings to form the said street, and, subject to the provision contained in sub-section (2) of section 40, may sell and dispose of the same in perpetuity or on lease for a term of years, with such stipulations as to the class and description of houses or buildings to be erected thereon as they may think fit.

Power to require repair of streets.

(3) When the Municipality consider that in any street, not being a public street, or in any part of such street, within the municipal district, it is necessary for the public health, convenience or safety that any work should be done for the levelling, paving, metalling, flagging, channeling, draining, lighting or cleaning thereof, the Municipality may by written notice require the respective owners of the lands or buildings fronting, adjoining or abutting upon such street or part thereof, to carry out such work in a manner and within a time to be specified in such notice.

and to declare such streets public.

(4) After such work has been carried out by such owners or, as provided in section 156, by the Municipality at the expense of such owners, the street or part thereof in which such work has been done may, and on the joint requisition of a majority

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[1] The words " to lease or sell " were substituted for the words " to sell " by Bom. 26 of 1930, s. 6.

of the said owners shall, be declared by a public notice, put up therein by the Municipality, to be a public street.

Power to declare any street a public street, subject to objections by the owners.

(*5*) A Municipality may, at any time, by notice fixed up in any street or part of a street not maintainable by the Municipality, give intimation of their intention to declare the same a public street, and unless within one month next after such notice has been so put up, the owner or the majority of several owners of such street or such part of a street lodges or lodge objections thereto at the municipal office, the Municipality may by notice in writing put up in such street, or such part, declare the same to be a public street.

New streets.

91. (*1*) Every person intending to lay out or make any new street, shall give notice in writing thereof to the Municipality, and shall furnish plans and sections showing the intended level, means of drainage, direction and width of such street, if required by the Municipality to do so, and the level, means of drainage, direction and width of every such street shall be fixed or approved by the Municipality.

Power of Municipality to pass orders.

(*2*) Before passing orders under sub-section (*1*), the Municipality may either issue,

(*a*) a provisional order directing that for a period therein specified, which shall not be longer than one month from the date of such order, the intended work shall not be proceeded with, or

(*b*) a demand for further particulars.

Right to proceed in certain cases.

(*3*) If,

(*a*) within one month from the receipt of the notice given under sub-section (*1*) the Municipality have neither—

(*i*) passed orders and served notice thereof either fixing or disapproving the proposals submitted under sub-section (*1*) with regard to level, means of drainage, direction and width of the street, nor.

(*ii*) under sub-section (*2*), issued any provisional order or demand for further particulars, or if

(*b*) the Municipality, having issued such demand for, and having received, in accordance with the demand and with by-laws in force in this behalf, such further particulars, have issued no further orders within one month from the receipt of such particulars,

then the street may be laid out and made, in such manner as may have been specified in the notice, and as is not inconsistent with any provision of this Act or of any by-laws for the time being in force thereunder.

Penalty.

(*4*) Whoever lays out, makes or builds upon any such street, either without giving the notice required by sub-section (*1*), or, except in accordance with the provisions of sub-section (*3*) without awaiting, or otherwise than in accordance with, the instructions issued by the Municipality, or in any manner contrary to the provisions of this Act or of any by-law in force thereunder shall be punished with fine which may extend to two hundred and fifty rupees, and the Municipality may cause any

street so laid out or made to be altered, and any building erected in such street contrary to their directions to be altered or removed, and the expense thereby incurred shall be paid to them by the offender, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII

[1][**91A.** (*1*) It shall be the duty of every [2][city municipality and of such other municipality as may be notified by [3][the Provincial Government] in this behalf] to prescribe a line on each side of every public street within the municipal district and the Municipality may from time to time prescribe a fresh line in substitution for any line so prescribed, or for any part thereof: The regular line of a public street.

Provided that—

(*a*) at least one month previous to prescribing such line or such fresh line, as the case may be, the Municipality shall give public notice of the proposal and they shall put up special notice thereof in the street or part of the street for which such line or such fresh line is proposed to be prescribed, and

(*b*) the Municipality shall consider any written objection or suggestion in regard to such proposal delivered at the office of the Municipality within such time as they may specify in such public or special notice.

(*2*) The line for the time being so prescribed shall be called ' the regular line of the public street '.

[4][(*3*) (*a*) Except] under the provisions of section 113, no person shall construct or reconstruct any portion of any building within the regular line of the public street without the permission of the Municipality under section 96.

(*b*) Where the Municipality refuses permission to construct or reconstruct any building in any area within the regular line of the public street, such area shall be added to the street and shall thenceforth be deemed part of the public street and shall be vested in the Municipality.

(*c*) Compensation, the amount of which shall in case of dispute be ascertained and determined in the manner provided in section 160, shall be paid by the Municipality to the owner of any land added to a street under clause (*b*) for the value of the said land, and to the owner of any building for any loss, damage or expense incurred by such owner in consequence of any action taken by the Municipality under the said clause :

Provided that no such compensation shall be payable in cases to which section 119 applies.]

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[1] Section 91A was inserted by s. 21 (*1*) of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

[2] These words were substituted for the word " Municipality " by Bom. 4 of 1924, s. 5.

[3] The words " the Provincial Government " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

[4] Sub-section (*3*) was substituted for the original sub section by Bom. 26 of 1930, s. 7.

(*4*) Whoever contravenes the provisions of sub-section (*3*) shall be punished with fine which may extend to one thousand rupees; and the Municipality may—

(*a*) direct that the building be stopped, and

(*b*) by written notice require such building or portion thereof to be altered or demolished as they may deem necessary.]

(*2*) *Powers to regulate buildings, etc.*

Setting back projecting buildings.

92. (*1*) If any part of a building projects beyond the regular line of a public street either as existing or as determined upon for the future or beyond the front of the building on either side thereof, the Municipality may,—

(*a*) if the projecting part thereof is a verandah, step or some other structure external to the main building, then at any time, or

(*b*) if the projecting part is not such external structure as aforesaid, then whenever the greater portion of such building or whenever any material portion of such projecting part has been taken down or burned down or has fallen down,

require by written notice either that the part, or some portion of the part, projecting beyond the said regular line or beyond the said front of the adjoining building on either side thereof, shall be removed or that such building when being rebuilt shall be set back to or towards the said regular line or the front of such building. And the portion of land added to the street by such setting back or removal shall thenceforth be deemed part of the public street and be vested in the Municipality.

Acquisition of land which is within the regular line of a street and open or occupied only by platforms, etc.

(*2*) If any land, not vested in the Municipality, whether open or enclosed, lies within the regular line of a public street, and is not occupied by a building other than a platform, verandah, step or other such external structure, the Municipality after giving the owner of the land not less than fifteen clear days' written notice of their intention, or if the land is vested in His Majesty, then with the permission in writing of the Collector, may take possession of the said land with its enclosing wall, hedge or fence, if any, and, if necessary, clear the same; and the land so acquired shall thenceforward be deemed a part of the public street, and be vested in the Municipality.

Compensation payable by the Municipality.

(*3*) Compensation, the amount of which shall in case of dispute be ascertained and determined in the manner provided in section 160, shall be paid by the Municipality to the owner of any land added to a street under sub-section (*1*) or acquired under sub-section (*2*) for the value of the said land and to the owner of any building for any loss, damage or expense incurred by such owner in consequence of any action taken by the Municipality under either of the said sub-sections, provided that no such compensation shall be payable in cases to which section 119 applies.

Setting forward to regular line of street.

93. The Municipality may, upon such terms as they think fit, allow any building to be set forward for improving the line of any public street in which such building is situated.

Roofs and external walls of buildings not to be made of inflammable materials.

94. (*1*) The external roofs and walls of buildings erected or renewed after the coming into force of this Act, shall not be made of grass, wood, cloth, canvas, leaves mats or other inflammable materials except with the written consent of the Municipality, which may be given either specially in individual cases, or generally in respect of any area specified therein.

Power to require removal of roof and wall if inflammable.

(*2*) The Municipality may at any time by written notice require the owner of any building which has an external roof or wall made of any such material as aforesaid, to remove such roof or wall within such reasonable time as shall be specified in the notice, whether such roof or wall was or was not made before the time at

which this Act came into force, and whether it was made with or without the consent of the Municipality.

(*3*) Whoever without such consent as is required by sub-section (*1*) makes, or causes to be made, or in disobedience to the requirements of a notice given under sub-section (*2*) suffers to remain, any roof or wall of such material as aforesaid, shall be punished with a fine which may extend to twenty-five rupees, and with a further fine which may extend to ten rupees for every day on which the offence is continued, after the date of the first conviction. Penalty.

95. No building shall hereafter be built upon a lower level than will allow of the drainage thereof being led into some public sewer or drain either then existing or projected by the Municipality, or into some stream or river, or into the sea, or some cesspool, or other suitable place which may be approved of by the Municipality. Level of buildings.

96. (*1*) Before beginning to erect any building, or to alter externally or add to any existing building, or to [1][construct or] reconstruct any projecting portion of a building in respect of which the Municipality is empowered by section 92 to enforce a removal or set-back, [2][or is empowered by section 91A to give permission to [1][construct or] reconstruct it,] the person intending so to build, alter, [3][add or reconstruct] shall give to the Municipality notice thereof in writing, and shall furnish to them, at the same time if required by a by-law or by special order to do so, Notice of new buildings.

(*a*) the sanad, if any, in force relating to the site of such proposed building, issued under section 10 of [4]Bombay Act IV of 1868 or received under section 133 of the [5]Bombay Land Revenue Code, 1879, or other enactment relating to the survey of lands in towns and cities, and

Bom. V of 1879.

(*b*) a plan showing the levels, at which the foundation and lowest floor of such building are proposed to be laid, by reference to some level known to the Municipality, and all information they may require regarding the limits, design, ventilation and materials of the proposed building, and the intended situation and construction of the drains, sewers, privies, water-closets, and cesspools, if any, to be used in connection therewith, and the location of the building with reference to any existing or projected streets [6][and the purpose for which the building will be used.]

(*2*) [7][Save as otherwise provided in this Act or the rules and bye-laws thereunder, the Municipality] may either give permission to erect [8][alter, add to or reconstruct] the building according to the plan and information furnished or may impose in writing such conditions as to level, drainage, sanitation, materials or to the dimensions and cubical contents of rooms, doors, windows and apertures for ventilation [9][or to the number of storeys to be erected], or with reference to the location of the building in relation to any street existing or projected [10][or the purpose for which the building is to be used], as they think proper, or may direct that the work Power of Municipality to pass orders.

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[1] These words were inserted by Bom. 26 of 1930, s. 8 (*a*) (*i*).

[2] These words, figures, and letter were inserted by s. 21 (*2*) of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

[3] These words were substituted for the words " or add " by Bom. 26 of 1930, s. 8 (*a*) (*ii*).

[4] Rep. by Bom. 5 of 1879.

[5] See *Supra*.

[6] These words were added by Bom. 26 of 1930, s. 8 (*a*) (*iii*).

[7] These words were substituted for the words " The Municipality may issue such orders not inconsistent with this Act as they think proper with reference to the work proposed in such notice and ", *ibid.*, s. 8 (*b*) (*i*).

[8] These words were substituted for the words " or alter or add to ", *ibid.*, s. 8 (*b*) (*ii*).

[9] These words were inserted, *ibid.*, s 8 (*b*) (*iii*).

[10] These words were inserted, *ibid.*, s. 8 (*b*) (*iv*).

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shall not be proceeded with unless and until all questions connected with the respective location of the building and any such street have been decided to their satisfaction.

Permission may be revoked and fresh permission given subject to conditions.

[1][(*2A*) The Municipality may, before any work has been commenced in pursuance of any permission granted by the Municipality under sub-section (*2*), revoke such permission and may give fresh permission in lieu thereof on such conditions, in accordance with this Act and the rules and bye-laws made thereunder, with reference to the matters mentioned in the said sub-section, as they think proper, and may direct that the work shall not be proceeded with unless and until all questions connected with the respective location of the building and any such street have been decided to their satisfaction.]

Or power of Municipality to suspend the work or require further particulars.

(*3*) Before issuing any orders under sub-section (*2*) the Municipality may, within one month from the receipt of such notice, either issue,

(*a*) a provisional order directing that for a period, which shall not be longer than one month from the date of such order, the intended work shall not be proceeded with, or

(*b*) may demand further particulars.

Right to proceed in certain cases.

(*4*) A building proposed in a notice given under sub-section (*1*) may be proceeded with in such manner, as ay have been specified in such notice as is not inconsistent with any provision of this Act or of any by-law for the time being in force thereunder in the following cases, that is to say :—

(*a*) in case the Municipality, within one month from the receipt of the notice given under sub-section (*1*) have neither

(*i*) passed orders under sub-section (*2*) and served notice thereof in respect of the intended work ; nor

(*ii*) issued under sub-section (*3*) any provisional order or any demand for further particulars ;

(*b*) in case the Municipality having issued such demand for and having received in accordance with the by-laws in force in this behalf, such further particulars, have issued no further orders within one month from the receipt of such particulars :

[2]* * * * * *

Commencement of work.

[3][(*4A*) No person who becomes entitled under sub-section (*2*) or (*4*), to proceed with any intended work of which notice is required by sub-section (*1*) shall commence such work after the expiry of the period of one year from the date on which he first became entitled so to proceed therewith, unless he shall have again become so entitled by a fresh compliance with the provisions of the preceding sub-sections.]

(*5*) Whoever begins [4][any construction, alteration, addition or reconstruction] without giving the notice required by sub-section (*1*) or without furnishing the documents or affording the information above prescribed, or except as provided in sub-section (*4*) without awaiting, or in any manner contrary to, such legal orders of the Municipality as may be issued under this section [5][or contrary to the provisions of sub-section (*4*) or (*4A*)], or in any other respect contrary to the provisions of this Act or of any by-law in force thereunder shall be punished with fine which may extend to one thousand rupees : [6][and in the case of a continuing contravention of any of the aforesaid provisions, he shall be liable to an additional

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[1] Sub-section (*2A*) was inserted by Bom. 26 of 1930, s. 8 (*c*).
[2] The proviso to sub-section (*4*) was repealed, *ibid.*, s. 8 (*d*).
[3] Sub-section (*4A*) was inserted, *ibid.*, s. 8 (*e*).
[4] These words were substituted for the words "or makes any building or alteration or addition", *ibid.*, s. 8 (*f*) (*i*).
[5] These words, figures and letter were inserted, *ibid.*, s. 8 (*f*) (*ii*).
[6] These words were inserted, *ibid.*, s. 8 (*f*) (*iii*).

fine which may extend to ten rupees for each day during which such contravention continues after conviction for the first such contravention]; and the Municipality may

(*a*) direct that the building, alteration, [1][addition or reconstruction] be stopped, and

[2][(*b*) upon a conviction being obtained under this sub-section by written notice, require such construction, alteration, addition or reconstruction to be altered or demolished in accordance with the provisions of such notice.]

(*6*) The Municipality or any officer deputed by them may at any time inspect the erection of any building without giving notice of their or his intention to do so, and [3]* * at any time during the erection of a building or the execution of any such work as aforesaid, or at any time not later than one month after being informed in writing by the person responsible for giving a notice under sub-section (*1*) that the erection of the building, or the execution of any such work as aforesaid, has been completed, may by written notice specify any matter in respect of which the erection of such building, or the execution of such work, may be in contravention of any provision of this Act or of any by-law made under this Act at the time in force, and require the person erecting or executing, or who has erected or executed, such building or work, or, if the person who has erected or executed such building or work is not at the time of notice the owner thereof, then the owner of such building or work, to cause anything done contrary to any such provision or by-law to be amended or to do anything which by any such provision or by-law he may be required to do but which has been omitted.

Explanation.—The expression "to erect a building" throughout this Chapter includes—

(*a*) any material alteration, enlargement or reconstruction of any building [4][or of any wall [5][including compound wall and fencing], verandah, fixed platform, plinth, doorstep or the like, whether constituting part of a building or not],

(*b*) the conversion into a place for human habitation of any building not originally constructed for human habitation,

(*c*) the conversion into more than one place for human habitation of a building originally constructed as one such place,

(*d*) the conversion of two or more places of human habitation into a greater number of such places,

(*e*) such alterations of the internal arrangements of a building as affect its drainage, ventilation or other sanitary arrangements, or its security, or stability, and

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[1] The words "addition or reconstruction" were substituted for the words "or addition" by Bom. 26 of 1930, s. 8 (*f*) (*iv*).

[2] Clause (*b*) was substituted for the original clause, *ibid*, s. 8 (*f*) (*v*).

[3] The words "they may" were repealed by s. 7 of the Bombay District Municipal (Amendment) Act, 1904 (Bom. 4 of 1904).

[4] These words were added by Bom. 26 of 1930, s. 8 (*g*).

[5] These words were inserted by Bom. 52 of 1949, s. 21.

(*f*) the addition of any rooms, buildings or other structures to any building, and a building so altered, enlarged, reconstructed, converted, or added to, is, throughout this Chapter, included under the expression " a new building ".

Power of Municipality to refuse permission.

[1][**96A.** (*1*) When a person has given notice to the municipality under sub-section (*1*) of section 96 in regard to his intention to build, alter, add to or reconstruct a building, it shall be lawful to the municipality to refuse the permission applied for if the municipality passes a resolution proposing to acquire the land on which any building is proposed to be erected or any building situated on which is proposed to be altered, added to or reconstructed.

(*2*) Such refusal shall be subject to the following conditions :—

(*a*) if the property is acquired and no agreement is arrived at as regards the amount of compensation payable to the person giving notice under sub-section (*1*) of section 96 the same shall be determined in accordance with the provisions of section 160 regard being had to the likely benefit which would have accrued to such person if the permission had not been refused ;

(*b*) if within a period of six months from the date of the resolution of the municipality proposing to acquire the land, the land is not acquired by the municipality by agreement upon payment, or if within such period, an application has not been made to the Collector for the institution of proceedings for compulsory acquisition under the provisions of the Land Acquisition Act, 1894, or if the municipality abandons the proposal to acquire the land, the notice given under sub-section (*1*) of section 96 shall be deemed to have been revived with effect from the date on which the said period of six months expires, or with effect from the date on which the decision of the municipality to abandon the proposal is arrived at, as the case may be. Such decision shall be communicated to the person giving notice within fifteen days from the date of the decision and the notice shall be dealt with as if the municipality has not passed a resolution to acquire the land. The municipality shall be liable to pay compensation to the said person in respect of the loss which he may prove to have incurred by reason of the municipality's refusal to grant the permission : I of 1894.

Provided that the municipality shall not be liable to pay compensation if the notice under sub-section (*1*) of section 96 is given subsequent to the passing of the resolution by the municipality to acquire the land.]

Regulation of huts.

97. It shall not be lawful for any person to erect any hut or shed or range or block of huts or sheds, or to add any hut or shed to any range or block of huts or sheds already existing when this Act comes into operation, without giving previous notice to the Municipality ; and the Municipality may require such huts or sheds to be built so that they may stand in regular lines, with a free passage or way in front of and between every two lines of such width as the Municipality think proper for ventilation and to facilitate scavenging, and at such a level as will admit of sufficient drainage, and may require such huts to be provided with such number of privies and such means of drainage as to them may seem necessary. If any hut or shed or range or block be built without giving such notice to the Municipality, or otherwise than as required by the Municipality, the Municipality may give written notice to the owner or builder thereof, or to the owner or occupier of the land on

[1] Section 96A was inserted by Bom. 52 of 1949, s. 22.

which the same is erected, or is being erected, requiring him within such reasonable time as shall be specified in the notice to take down and remove the same, or to make such alterations therein or additions thereto as having regard to sanitary considerations the Municipality may think fit.

Improvement of huts.

98. (*1*) Whenever the Municipality are of opinion that any huts or sheds, whether used as dwellings or stables or for any other purposes, and whether existing at the time when this Act comes into operation or subsequently erected, are by reason—

(*a*) of insufficient ventilation or of the manner in which such huts or sheds are crowded together, or

(*b*) of the want of a plinth or of a sufficient plinth or of sufficient drainage, or

(*c*) of the impracticability of scavenging,

attended with risk of disease to the inhabitants or the neighbourhood, they shall cause a notice to be affixed to some conspicuous part of each such hut or shed, requiring the owner or occupier thereof, or the owner of the land on which such hut or shed is built, within such reasonable time as may be fixed by the Municipality for that purpose, to take down and remove such hut or shed, or to execute such operations as the Municipality may deem necessary for the avoidance of such risk.

(*2*) In case any such owner or occupier shall refuse or neglect to take down and remove such huts or sheds, or to execute such operations within the time appointed, the Municipality may cause the said huts or sheds to be taken down, or such operations to be performed in respect of such huts or sheds as they may deem necessary to prevent such risk.

(*3*) If such huts or sheds be pulled down by the Municipality, the Municipality shall cause the materials of each hut or shed to be sold separately, if such sale can be effected, and the proceeds, after deducting all expenses, shall be paid to the owner of the hut or shed, or if the owner be unknown or the title disputed, shall be held in deposit by the Municipality until the person interested therein shall obtain the order of a competent Court for the payment of the same :

Provided always that in case any huts or sheds, existing at the time when the land on which they are situated first became part of a municipal district, should be pulled down under this section by order of the Municipality, or in pursuance of their notice, compensation shall further be made to the owner or owners thereof, and the amount thereof, in case of dispute, shall be ascertained and determined in the manner provided in section 160.

(*3*) *Powers connected with drainage, etc.*

Municipal control over drains, etc.

99. (*1*) All sewers, drains, privies, water-closets, house-gullies and cesspools within the municipal district shall be under the survey and control of the Municipality.

(*2*) All covered sewers and drains, and all cesspools, whether public or private, shall be provided by the Municipality or other persons to whom they severally

belong, with proper traps, or other coverings or means of ventilation and the Municipality may by written notice call upon the owner of any such covered sewers, drains or cesspools to make provision accordingly.

Powers for making drains.

100. (*1*) In order to carry out any drainage scheme it shall be lawful for a Municipality to carry any drain, sewer, conduit, tunnel, culvert pipe or water-course through, across or under any street, or any place laid out as or intended for a street, or under any cellar or vault which may be under any street, and after giving reasonable notice in writing to the owner or occupier, into, through or under any land whatsoever within the municipal district.

(*2*) The Municipality, or any officer appointed by them for such purpose, may enter upon and construct any new drain in the place of an existing drain in any land wherein any drain vested in the Municipality has been already constructed, or may repair or alter any drain vested in the Municipality.

(*3*) In the exercise of any power under this section no unnecessary damage shall be done, and compensation, which shall, in case of dispute, be ascertained and determined in the manner provided in section 160, shall be paid by the Municipality to any person who sustains damage by the exercise of such power.

Sufficient drainage of houses.

101. (*1*) If any building or land be at any time undrained, or not drained to the satisfaction of the Municipality, the Municipality may by written notice call upon the owner to construct or lay from such building or land a drain or pipe of such size and materials, at such level, and with such fall as they think necessary for the drainage of such building or land into—

(*a*) some drain or sewer, if there be a suitable drain or sewer within fifty feet of any part of such building or land, or

(*b*) a covered cesspool to be provided by such owner.

New buildings not to be erected without drains.

(*2*) It shall not be lawful newly to erect any building or to re-build any building, or to occupy any building newly erected or re-built, unless and until—

(*a*) a drain be constructed of such size, materials and description, at such level, and with such fall, as shall appear to the Municipality to be necessary for the effectual drainage of such building ;

(*b*) there have been provided for and set up in such building and in the land appurtenant thereto, all such appliances and fittings as may appear to the Municipality to be necessary for the purposes of gathering and receiving the drainage, from, and conveying the same off, the said building and the said land and of effectually flushing the drain of the said building and every fixture connected therewith.

(*3*) The drain to be constructed as aforesaid shall empty into a municipal drain, or into some place legally set apart for the discharge of drainage situated at a distance not exceeding fifty feet from such building ; but if there is no such drain or place within that distance, then such drain shall empty into such cesspool as the Municipality direct.

Powers of owners and occupiers of buildings or lands to drain into municipal drains.

102. The owner or occupier of any building or land within the municipal district shall be entitled to cause his drains to empty into the sewers of the Municipality, provided that he first obtains the written permission of the Municipality, and that he complies with such conditions as the Municipality prescribe as to the mode in which and the superintendence under which the communications are to be made between drains not vested in the Municipality and drains which are so vested.

How right to carry drain through land or into drain belonging to other persons may be obtained.

103. (*1*) If the owner or occupier of any building or land desires to connect the same with any municipal drain, by means of a drain, to be constructed through land, or to be connected with a drain, belonging to or occupied by or in the use of some other person, he may make a written application in that behalf to the Municipality.

Such right how and on what conditions to be authorized by Municipality.

(*2*) The Municipality thereupon, after giving to such other person a reasonable opportunity of stating any objection to such application, may, if no objection is raised or if any objection which is raised is in their opinion insufficient, by an order in writing authorize the applicant to carry his drain into, through, or under the said land, or into the said drain, as the case may be, in such manner and on such conditions as to the payment of rent or compensation, and as to the respective responsibilities of the parties for maintaining, repairing, flushing, cleaning and emptying the said drains as may appear to them to be adequate and equitable.

Written order of municipal authority for execution of necessary work.

(*3*) Every such order shall be a complete authority to the person in whose favour it is made, or to any agent or other person employed by him for this purpose, after giving or tendering to the owner or occupier of the said land or drain the compensation or rent, if any, specified in the said order, and otherwise fulfilling as far as possible the conditions of the said order, and after giving to the said owner or occupier reasonable notice in writing, to enter upon the land specified in the said order with assistants and workmen at any time between sunrise and sunset and, subject to all provisions of this Act, to do all such work as may be necessary—

(*a*) for the construction or connection of the drain, as may be authorized by the said order,

(*b*) for renewing, repairing or altering the same, as may be necessary from time to time, or

(*c*) for discharging any responsibility attaching to him under the terms of the order as to maintaining, repairing, flushing, cleaning or emptying the said drain or any part thereof.

Work how to be carried out.

104. In executing any work under section 103, as little damage as possible shall be done, and the owner or occupier of the buildings or lands for the benefit of which the work is done, shall—

(*a*) cause the work to be executed with the least practicable delay;

(*b*) fill in, reinstate and make good at his own cost and with the least practicable delay the ground or any portion of any building or other construction opened, broken up or removed for the purpose of executing the said work; and

(*c*) pay compensation to any person who sustains damage by the execution of the said work.

Rights of owner of land through which drain is carried in regard to subsequent building thereon.

105. If the owner of any land into, through or under which a drain has been carried under section 103 whilst such land was unbuilt upon, shall at any subsequent time desire to erect a building thereon, the Municipality shall, if they sanction the erection of such building, by written notice require the owner or occupier of the buildings or land for the benefit of which such drain was constructed to close, remove or divert the same, and to fill in, reinstate and make good the land in such manner as they may deem to be necessary, in order to admit of the construction or safe enjoyment of the proposed building.

Provision of privies, etc.

106. (*1*) In case the Municipality shall be of opinion that any privy or cesspool, or additional privies, or cesspools, should be provided in or on any building or land or, in any municipal district in which, with the approval of the sanitary board,

a water-closet system has been introduced, [1][that water-closets or additional water-closets should be provided in or on any building or land, or that water-closets should be substituted for the existing privies in such number as may be considered necessary by it,] the Municipality may by written notice call upon the owner of such building or land to provide such privies, cesspools or water-closets [2][or to substitute water-closets for the existing privies] as the Municipality may deem proper.

(*2*) The Municipality may by written notice require any person or persons employing workmen or labourers exceeding twenty in number, or owning or managing any market, school or theatre or other place of public resort, to provide such latrines and urinals as the Municipality may direct, and to cause the same to be kept in proper order, and to be daily cleaned.

(*3*) The Municipality may by written notice require the owner or occupier of any land upon which there is a privy, to have such privy shut out, by a sufficient roof and a wall or fence, from the view of persons passing by or resident in the neighbourhood, or to alter as they may direct any privy door or trap door which opens on to any street, and which they deem to be a nuisance.

Cost of altering, repairing and keeping in proper order privies, etc.

107. (*1*) All sewers, drains, privies, water-closets, house-gullies and cesspools within municipal district shall, unless constructed at the cost of the Municipality, be altered, repaired, and kept in proper order at the cost and charges of the owners of the land and buildings to which the same belong, or for the use of which they are constructed or continued, and the Municipality may by written notice require such owner to alter, repair, and put the same in good order in such manner as they think fit.

(*2*) The Municipality may by written notice [3][require the owner to] demolish or close any privy or cesspool, whether constructed before or after the coming in operation of this Act, which in the opinion of the Municipality is a nuisance, or is so constructed as to be inaccessible for the purpose of scavenging or incapable of being properly cleaned or kept in good order.

Power to close existing private drains.

108. When any building or land within the municipal district has a drain communicating with any cesspool or sewer, the Municipality, if they consider that such drain, though it may be sufficient for the drainage of such building or land, and though it may be otherwise unobjectionable is not adapted to the general sewerage of the district, may close such drain, and such cesspool or sewer, whether it is or is not on land vested in the Municipality, on providing a drain or drains equally effectual for the drainage of such building or land, and the Municipality may do any work necessary for the purpose.

Power in respect of sewers, etc., unauthorizedly constructed, rebuilt or unstopped.

109. The Municipality may by written notice require that any such sewer, drain, privy, water-closet, house-gully or cesspool on any land within municipal limits constructed, rebuilt or unstopped—

(*a*) after such land became part of a municipal district, and

(*b*) either without the consent or contrary to the orders, directions or general regulations or by-laws of the Municipality, or contrary to the provisions of any enactment in force at the time when it was so constructed, rebuilt or unstopped,

shall be demolished, amended or altered, as they may deem fit, by the person by whom it was so constructed, rebuilt or unstopped and every person so

[1] This portion was substituted for the portion beginning with the words "that water closets" and ending with the words "therein or thereon" by Bom. 52 of 1949, s. 23 (*i*).
[2] These words were inserted *ibid*, s. 23 (*ii*).
[3] These words were inserted by Bom. 4 of 1924, s. 6.

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constructing, rebuilding or unstopping any such sewer, drain, privy, water-closet, house-gully or cesspool, whether he does or does not receive such notice or does or does not comply therewith shall, in addition to any penalty to which he may be liable on account of such non-compliance, be punished with fine which may extend to twenty-five rupees.

Encroachments on municipal drains.

110. (*1*) Whoever, without the written consent of the Municipality first obtained, makes or causes to be made any drain into or out from any of the sewers or drains vested in the Municipality, shall be punished with fine which may extend to twenty-five rupees, and the Municipality may by written notice require such person to demolish, alter, remake, or otherwise deal with such drain as they may think fit.

(*2*) No building shall be newly erected or rebuilt over any sewer, drain, culvert or gutter vested in the Municipality, without the written consent of the Municiplaity, and the Municipality may by written notice require the person who may have erected or rebuilt such building to pull down or otherwise deal with the same as they may think fit.

Inspection of drains, etc.

111. (*1*) The Municipality or any officer appointed by them for such purposes may, subject to the rest ictions of this Act, inspect any sewer, drain, privy, water-closet, house-gully or cesspool, and for that purpose, at any time between sunrise and sunset, may enter upon any lands or buildings with assistants and workmen, and cause the ground to be opened where he or they may think fit, doing as little damage as may be.

Expense of inspection when to be borne by the Municipality.

(*2*) The expense of such inspection, and of causing the ground to be closed and made good as before shall be borne by the Municipality, unless the sewer, drain, privy, water-closet, house-gully or cesspool is found to be in bad order o condition, or was constructed in contravention of the provisions of any enactment, o of any by-laws of the Municipality in force at the time, in which case such expenses shall be paid by the owner of such sewer, drain, privy. water-closet, house-gully or cesspool and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

Municipality may execute certain works under this sub-chapter without allowing option to person concerned of executing the same.

112. (*1*) The Municipality may, if they think fit, cause any work of the nature to which this sub-chapter applies to be executed by municipal or other agency under their own orders, without first of all giving the person by whom the same would otherwise have to be executed the option of doing the same.

Expenses in such cases by whom to be paid.

(*2*) The expenses of any work so done shall be paid by the person aforesaid, unless the Municipality shall, by a general or special order or resolution, sanction, as they are hereby empowered to sanction, the execution of such work at the charge of the municipal fund.

(*3*) Any pipes, fittings, receptacles, or other appliances for or connected with the drainage of private buildings or lands shall, if supplied, constructed or erected at the expense of the Municipality, be deemed to be municipal property, unless the Municipality shall have transferred their interest therein to the owner of such buildings or lands.

(4) Powers regarding external structures, etc.

Permission necessary for certain projections.

113. *(1)* The Municipality may give written permission to the owners or occupiers of buildings in public streets to put up open verandahs, balconies or rooms, to project from any upper storey thereof, at such height from the surface of the street as the Municipality may fix by by-laws from time to time, and to an extent not exceeding four feet beyond the line of the plinth or basement wall, and may prescribe [1] [the conditions subject to which permission may be given for the projection over such streets of roofs, eaves, weather-boards, shop-boards and the like.]

[2][*(1A)* Permission granted under sub-section *(1)* may be permanent or for such period at a time as may be specified in writing when such permission is granted.]

[3][*(2) (a)*] Any such owner or occupier putting up any such projections as aforesaid without such permission or in contravention of such orders, shall be punished with fine which may extend to twenty-five rupees, and if any such owner or occupier, fails to remove any such projection as aforesaid in repect of which he has been convicted under this section, he shall be punished with further fine which may extend to five rupees for each day on which such failure or neglect continues.

[4][*(b)* Notwithstanding any proceedings which may be taken under clause *(a)* of this sub-section, the Municipality may, by written notice, require the owner or occupier of any such building to remove or alter any such projection which has been constructed either without, or contrary in any manner to, the permission of the Municipality.]

Removal of projections.

(3) The Municipality may by written notice require the owner or occupier of any building to remove or alter any projection, encroachment or obstruction which, whether erected before or after the site of such building became part of a municipal district, shall have been erected or placed against or in front of such building, and which—

(a) overhangs or juts into, or in any way projects or encroaches upon, any public street, so as to be an obstruction to safe and convenient passage along such street, or which

(b) projects and encroaches into or upon any uncovered aqueduct, drain or sewer in such street, so as to obstruct or interfere with such aqueduct, drain or sewer, or the proper working thereof:

Provided always that the Municipality shall, if such projection, encroachment, or obstruction shall have been made in any place before the date on which such place became part of a municipal district, or after such date with the written permission of the Municipahty, make reasonable compensation to every person who suffers damage by such removal or alteration; and if any dispute shall arise touching the amount of such compensation, the same shall be ascertained and determined in the manner provided in section 160.

Troughs and pipes for rain water.

114. The Municipality may by written notice require the owner of every building in any street to put up and keep in good condition proper troughs and pipes for catching and carrying the water from the roof and other parts of such building, and for discharging the same, in such manner as they may think fit, so that it shall not fall upon the persons passing aloug the streets.

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[1] This portion was substituted for the words beginning with the words " the extent to which " and ending with the words " over such streets " by Bom. 52 of 1949, s. 24 *(i)*.

[2] Sub-section *(1A)* was inserted *ibid*, s. 24 *(ii)*.

[3] Sub-section *(2)* was renumbered as sub-section *(2) (a)* by Bom. 26 of 1930, s. 9.

[4] Clause *(b)* was inserted, *ibid.*

Fixing of brackets, etc., to houses.

115. The Municipality may erect or fix to the outside of any building brackets for lamps to be lighted with oil or gas, or subject to the provisions of the [1]Indian Electricity Act, 1887, for lamps to be lighted with electricity or otherwise, or subject to the provisions of the [2] Indidn Telegraph Act, 1885, as amended by subsequent enactments, for telegraph wires or telephonic wires, or for the conduct of electricity for locomotive purposes or such pipes as they may deem necessary for the proper ventilation of sewers and water-works, and such brackets and pipes shall be erected so as not to occasion any inconvenience or nuisance to the said building or any others in the neighbourhood. XIII of 1887. XIII of 1885.

Naming streets and numbering houses.

116. (*1*) The Municipality may from time to time cause to be put up or painted on a conspicuous part of any building at or near each end, corner or entrance to every street, the name by which such street is to be known, and may from time to time fix a number in a conspicious place on the outer side of any building, or at the entrance of the enclosure thereof fronting the street.

(*2*) Any person who destroys, pulls down or defaces any such name or number or puts any name or number different from that put up by the Municipality, and any owner or occupier of any building who shall not at his own expense keep such number in good order after it has been put up thereon, shall be punished with fine which may extend to twenty-five rupees.

Penalty for defacing building, etc.

117. Any person

(*a*) who without the consent of the owner or occupier affixes any posting bill, placard or other paper or means of advertisement against or upon any building, wall, board, fence or pale, or

(*b*) who without such consent as aforesaid writes upon, soils, defaces or marks any such building, wall, board, fence or pale with chalk or paint or in and other way whatsoever,

shall be punished with fine which may extend to twenty rupees.

Removal and trimming of hedges, trees, etc.

118. The Municipality may by written notice require the owner or occupier of any land so to trim or prune the hedges thereof bordering any public street that the said hedges may not exceed the height of four feet from the level of the street, and width of four feet, and to cut down, lop, or trim all trees or shrubs which in any way overhang, endanger or obstruct, or which they deem likely to overhang, endanger, or obstruct any public street or to cause damage thereto, or which so overhang any public tank, well, or other provision for water-supply as to pollute, or be likely to pollute, the water thereof.

(5) Powers for promotion of public health, safety and convenience.

Ruinous or dangerous buildings.

119. (*1*) If any building, or anything affixed thereon, be deemed by the Municipality to be in a ruinous state or likely to fall or in any other way dangerous to any inhabitants of such building or of any neighbouring building or to any occupier thereof, or to passengers, the Municipality shall immediately, if it appears to them to be necessary, cause a proper hoard or fence to be put up for the protection of passengers; all expenses incurred by the Municipality under this sub-section shall be paid by the owner or occupier of such building and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

[1] *See* now the Indian Electricity Act, 1910 (9 of 1940), Central Acts.
[2] Central Acts.

(2) The Municipality shall also cause notice in writing to be given to the owner or occupier, requiring such owner or occupier forthwith to take down, secure, or repair such building, or thing affixed thereon. as the case shall require, and if such owner or occupier do not begin to repair, take down, or secure such building or thing within three days after the service of such notice, and complete such work with due diligence, the Municipality shall cause all or so much of such building or thing, as they shall think necessary, to be taken down, repaired or otherwise secured : Action to be taken on default by owner or occupier.

Provided always that if the danger be not of hourly imminence, it shall be at the discretion of the Municipality, instead of themselves causing a hoard or fence to be put up, to issue in the first instance notice in writing to the owner or occupier to put up a proper hoard or fence, and in the event of the owner or occupier failing to put up within two days from the service of such notice a hoard or fence which the Municipality consider sufficient in the circumstances of the case, the Municipality shall at once cause such hoard or fence to be put up and thereafter proceed as provided in sub-sections (1) and (2). Proviso if danger is not imminent.

120. (1) The Municipality may at any time by written notice require that the owner of, or any person who has the control over, any well, stream, channel, tank or other source of water-supply, shall, whether it is private property or not, Powers and duties with regard to dangerous, stagnant or insanitary sources of water-supply.

(a) keep and maintain any such source of water-supply, other than a stream, in good repair, or

(b) within a reasonable time to be specified in the notice, cleanse any such source of water-supply from silt, refuse and decaying vegetation, or

(c) in such manner as the Municipality prescribe, protect any such source of water-supply from pollution by surface drainage, or

(d) within twenty-four hours of such notice, repair, protect or enclose in such manner as the Municipality approve, any such source of water-supply other than a stream in its natural flow, if for want of sufficient repair, protection or enclosure, such source of water-supply is in the opinion of the Municipality dangerous to the health or safety of the public or of any persons having occasion to use or to pass or approach the same, or shall

(e) desist from using and from permitting others to use for drinking purposes any such source of water-supply which not being a stream in its natural flow, is proved to the satisfaction of the Municipality to be unfit for drinking ; or

(f) if notwithstanding any such notice under clause (e) such use continues and cannot in the opinion of the Municipality be otherwise prevented, close, either temporarily or permanently, or fill up or enclose or fence in such manner as the Municipality consider sufficient to prevent such use, such source of water-supply as aforesaid ;

(g) drain off or otherwise remove from any such source of water-supply, or from any land or premises or receptacle or reservoir attached or adjacent thereto, any stagnant water which the Municipality consider is injurious to health or offensive to the neighbourhood.

(2) If the owner or person having control as aforesaid, fails or neglects to comply with any such requisition within the time required by or under the provisions of sub-section (1), the Municipality may, and if in their opinion immediate action is necessary to protect the health or safety of any person, shall at once proceed to execute the work required by such notice, and all the expenses incurred therein by the Municipality shall be paid by the owner of, or person having control over, such water-supply, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII : Remedy on non-compliance with directions issued.

Provided that in the case of any well or private stream or of any private channel, tank or other source of water-supply, the water of which is used by the public or by any section of the public as of right, the expenses incurred by the Municipality or necessarily incurred by such owner or person having such control, may, if the Municipality so direct, be paid from the municipal fund.

Displacing pavements, etc.

121. (*1*) Whoever displaces, takes up or makes any alteration in the pavement, gutter, flags or other materials, of any public street, or the fences, walls, or posts thereof, or any municipal lamp, lamp-post, bracket, water-post, hydrant, or other such municipal property therein, without the written consent of the Municipality, or other lawful authority, shall be punished with fine which may extend to one hundred rupees.

[1][(*2*) Any person who has displaced, taken up or made alteration in, any such pavement, gutter, flags or other materials, or in such fences, walls, posts, municipal lamps, lamp-posts, brackets, water-posts hydrants or other municipal property, whether with or without the consent required under sub-section (*1*), shall be liable to pay the expense which the municipality may incur in replacing or restoring the same. Such expenses shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.]

Obstructions and encroachments upon public streets and open spaces.

122. (*1*) Whoever in any place after it has become a municipal district, shall have built or set up, or shall build or set up, any wall or any fence, rail, post, stall, verandah, platform, plinth, step or any projecting structure or thing, or other encroachment or obstruction, in any public street, or shall deposit or cause to be placed or deposited any box, bale, package or merchandise, or any other thing in such street, or in or over or upon, any open drain, gutter, sewer or aqueduct in such street, shall be punished with fine which may extend to twenty-five rupees [2][and with further fine which may extend to five rupees for every day on which such projection, encroachment, obstruction or deposit continues after the date of first conviction for such offence.]

(*2*) The Municipality shall have power to remove any such obstruction or encroachment, and shall have the like power to remove any unauthorised obstruction or encroachment of the like nature in any open space not being private property, whether such space is vested in the Municipality or not, provided that if the space be vested in His Majesty the permission of the Collector shall have first been obtained, and the expense of such removal shall be paid by the person who has caused the said obstruction or encroachment, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

(*3*) Whoever, not being duly authorised, in that behalf, removes earth, sand or other material from, or makes any encroachment in or upon, any open space which is not private property, shall be punished with fine which may extend to fifty rupees, and, in the case of an encroachment, with further fine which may extend to ten rupees for every day on which the encroachment continues after the date of first conviction for such offence.

(*4*) Nothing contained in the section shall prevent the Municipality from allowing any temporary occupation of or erections in any public street on occasions of festivals and ceremonies, or the piling of fuel in by-streets and spaces for not more than four days, and in such manner as not to inconvenience the public or any individual

[1] Sub-section (*2*) was substituted for the original sub-section (*2*) by Bom. 52 of 1949, s. 25.

[2] These words were added by Bom. 26 of 1930, s. 10.

[1][(5) Nothing contained in this section shall apply to any projection duly authorized under sub-section (1) of section 113, or in any case where permission has been given under sub-section (4).]

Hoards to be set up during repairs, etc.

123. (1) Every person intending to build or take down any building, or to alter or repair the outward part of any building, in such a position or in such circumstances as the work is likely to cause or may cause obstruction, danger or inconvenience in any street, shall before beginning such work,

(a) first obtain a licence in writing from the Municipality so to do, and

(b) cause sufficient hoards or fences to be put up in order to separate the building where such works are being carried on from the street and shall maintain such hoard or fence standing and in good condition to the satisfaction of the Municipality during such time as the public safety or convenience requires, and shall cause the same to be sufficiently lighted during the night, and shall remove the same when directed by the Municipality.

(2) Whoever contravenes any of the provisions of this section shall be punished with fine which may extend to fifty rupees, and with further fine which may extend to ten rupees for every day or night, as the case may be, on which such contravention continues, after the date of the first conviction.

Fencing and lighting during repairs, etc.

124. (1) The Municipality shall, during the construction or repair of any of the streets, sewers, drains or other premises vested in them, take proper precaution for guarding against accident, by shoring up and protecting the adjoining buildings and shall cause such bars, chains or posts, to be fixed across or in any of the streets to prevent the passage of carriages, carts, or other vehicles, or of cattle or horses, while such works are carried on, as to them shall seem proper; and the Municipality shall cause any sewer or drain or other works in streets, during the construction or repair thereof, to be lighted with a sufficient light and guarded during the night.

(2) Whoever, takes down, alters or removes any of the said bars, chains or posts, or removes or extinguishes any such light, without the authority or consent of the Municipality, shall be punished with fine which may extend to fifty rupees.

Timber not to be deposited or hole made in a street without permission.

125. (1) No person shall, without the written permission of the Municipality or otherwise than in accordance with such conditions as may therein be prescribed, make a hole in any street or erect or deposit thereon, any timber, stone, brick, earth or other material that has been, or is intended to be, used for building; and such, permission shall be terminable at the discretion of the Municipality; and when such permission is granted to any person, he shall, at his own expense, cause such materials or such hole to be sufficiently fenced and enclosed until the materials are removed, or the hole is filled up or otherwise made secure, to the satisfaction of the Municipality, and shall cause the same to be sufficiently lighted during the night.

(2) Whoever contravenes any of the provisions of sub-section (1) shall be punished with fine which may extend to twenty-five rupees, and with further fine which may extend to ten rupees for every day or night, as the case may be, on which such contravention continues, after the date of the first conviction.

Dangerous quarrying.

126. [2]* If in the opinion of the Municipality the working of any quarry or the removal of stone, earth or other material from the soil in any place, is dangerous to

[1] Sub-section (5) was added by s. 9 of the Bombay District Municipal (Amendment) Act, 1904 (Bom. 4 of 1904).

[2] The figure "(1)" was deleted by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. 3 of 1902).

persons residing in or having legal access to the neighbourhood thereof, or creates or is likely to create a nuisance, the Municipality may, by written notice, require the owner of the said quarry or place, or the person responsible for such working or removal, not to continue or permit the working of such quarry or the removing of such material, or to take such order with such quarry or place as the Municipality shall direct for the purpose of preventing danger or of abating the nuisance arising or likely to arise therefrom :

Provided that if such quarry or place is vested in [1][Government] or if such working thereof or removal therefrom as aforesaid is being carried on by or on behalf of [2][any Government], or any person acting with the permission or under the authority of [2][any Government] or of any [3][Government officer] acting as such, the Municipality shall not take such action unless and until the Collector has consented to their so doing :

Provided further that the Municipality shall immediately cause a proper board or fence to be put up for the protection of passengers near such quarry or place if in any case referred to it this [4][section] it appears to them to be necessary in order to prevent imminent danger, and any expense incurred by the Municipality in taking action under this section shall be paid by such owner or other person as aforesaid, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

(6) Powers for the prevention of nuisances.

Depositing dust, etc.

127. (*1*) Whoever deposits, or causes or suffers any member of his family or household to deposit any dust, dirt, dung, ashes, garden, kitchen or stable refuse, or filth of any kind, or any animal matter, or any broken glass or earthen-ware or other rubbish, or any other thing that is or may be a nuisance, in any street or in any arch under a street, or in any drain beside a street or on any open space or on any quay, jetty or landing-place, or on any part of the sea-shore or the bank of a tidal river, whether above or below highwater mark, or on the bank of any river, water-course or nullah, except at such places, in such manner, and at such hours as shall be fixed by the Municipality, and whoever commits, or suffers any member of his family or household to commit nuisance in any such place as aforesaid, shall be punished with fine which may extend to twenty-five rupees.

(*2*) Whoever throws or puts, or causes or suffers any member of his household to throw or put, any of the matter above described, or, except with the permission of the Municipality, any night-soil into any sewer, drain, culvert, tunnel, gutter or water-course, and whoever commits nuisance, or suffers any member of his family to commit nuisance, in any such drain, culvert. tunnel or water-course, or in such close proximity thereto as to pollute the same, shall be punished with fine which may extend to twenty-five rupees.

Discharging sewage, etc..

128. Whoever causes or allows the water of any sink or sewer, or any other liquid or other matter which is, or which is likely to become offensive from any building or land under his control, to run, drain, or be throwr or put upon any street or open space, or to soak through any external wall, or causes or allows any offensive matter from any sewer or privy to run, drain or be thrown into a surface drain in

[1] This word was substituted for the words "His Majesty" by the Adaptation of Laws Order, 1950.

[2] The words "any Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[3] These words were substituted for the words "servant of the Crown" by the Adaptation of Laws Order, 1950.

[4] This word was substituted for the word "sub-section" by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. 3 of 1902).

any street, without the permission in writing of the Municipality, or who fails to comply with any condition prescribed in such permission, shall be punished with fine which may extend to twenty-five rupees.

Non-removal of filth, etc.

129. Whoever, being the owner or occupier of any building or land, keeps or allows to be kept for more than twenty-four hours, or otherwise than in some proper receptacle, any dirt, dung, bones, ashes, night-soil, filth or any noxious or offensive matter, in or upon such building or land, or suffers such receptacle to be in a filthy or noxious state, or neglects to employ proper means to remove the filth from, and to cleanse and purify such receptacle, or keeps or allows to be kept in or upon such building or land any animal in such a way as to cause a nuisance, shall be punished with fine which may extend to twenty-five rupees, and with further fine which may extend to five rupees, for every day on which such offence is continued, after the date of the first conviction.

Removal of night-soil.

130. (*1*) The Municipality may from time to time fix the hours within which only it shall be lawful to remove any night-soil or other such offensive matter.

(*2*) Whoever,

(*a*) when the Municipality have fixed such hours, and given public notice thereof by beat of drum, removes, or causes to be removed, along any street any such offensive matter at any time except within the hours so fixed, or

(*b*) at any time, whether such hours have been fixed by the Municipality or not,

(*i*) uses for any such purpose any cart, carriage, receptacle or vessel not having a covering proper for preventing the escape of the contents thereof, and of the stench therefrom, or

(*ii*) wilfully or negligently slops or spills any such offensive matter in the removal thereof, or

(*iii*) does not carefully sweep and clean every place in which any such offensive matter has been slopped or spilled, or

(*iv*) places or sets down in any public place any vessel containing such offensive matter, or

(*v*) drives or takes or causes to be driven or taken any cart, carriage, receptacle or vessel used for any such purpose as aforesaid, through any street or by any route, other than such as shall from time to time be appointed for that purpose by the Municipality by public notice,

shall be punished with fine which may extend to twenty-five rupees.

Filthy buildings, etc.

131. (*1*) Whoever, being the owner or occupier of any building or land, whether tenantable or otherwise, suffers the same to be in a filthy and unwholesome state or in the opinion of the Municipality a nuisance to persons residing in the neighbourhood, or overgrown with prickly-pear or rank and noisome vegetation, and who shall not, within a reasonable time after notice in writing by the Municipality to cleanse, clear or otherwise put the same in a proper state have complied with the requisition contained in such notice, shall be punished with fine which may extend to twenty-five rupees, and with further fine which may extend to five rupees for every day on which the failure to comply with the said notice is continued, after the date of the first conviction.

(*2*) Should the state of the building be such as in the judgement of the Municipality to render it unfit for human habitation, they may further by written notice prohibit the using thereof for that purpose until it is so rendered fit.

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Deserted and offensive buildings.

(*3*) If any building, by reason of dilapidation, neglect, abandonment, disuse or disputed ownership, or of its remaining untenanted and thereby,

(*a*) becoming a resort of idle and disorderly persons, or of persons who have no ostensible means of subsistence, or who cannot give a satisfactory account of themselves, or

(*b*) coming into use for any insanitary or immoral purpose, or

(*c*) affording a shelter to snakes, rats or other dangerous or offensive animals,

is open to the objection that it is a nuisance, or so unwholesome or unsightly as to be a source of discomfort, inconvenience or annoyance to the neighbourhood or to persons passing by such building,the Municipality, if they consider such objection cannot under any other provision of this Act be otherwise removed, may, if there is any person known or resident within the municipal district who claims to be the owner of such building, by written notice directed to such person, require such person or in any other case by written notice fixed on the door or any other conspicuous part of the building, require all persons claiming to be interested in such building, within a period which shall be specified in the notice and shall not be less than seven days from the date of such notice, to cause such building to be taken down and the materials thereof to be removed, and in the event of non-compliance with such requirement, the Municipality, on the expiration of the period specified as aforesaid, may forthwith cause the building to be taken down and the materials to be removed, and may sell such materials and apply the proceeds to defray any expenses incurred by them in so doing, and all such expenses not thereby defrayed shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

Power to enter and inspect, etc., buildings.

132. It shall be lawful for the president, vice-president, or any councillor or officer authorized by the Municipality in this behalf, at any time between sunrise and sunset, on giving such notice as hereinafter provided, to enter into and inspect all buildings and lands, and by written notice to direct all or any part thereof to be forthwith internally and externally lime-washed or otherwise cleansed for sanitary reasons.

Bathing places.

133. (*1*) The Municipality may set apart sufficient public places, or any part of the sea-shore, not being private property, for the purpose of being used as bathing places, and may also provide or set apart a sufficient number of convenient tanks or runs of water for the inhabitants to bathe in ; and may also set apart tanks or reservoirs or runs of water for washing animals or clothes, and for all purposes connected with the health, cleanliness and comfort of the inhabitants, and may prohibit the use, for any purpose mentioned in this section, of any or all other public places within the municipal district.

(*2*) Copies of all orders passed and notices issued by the Municipality and for the time being in force under this section, shall be kept at the municipal office and shall be open for inspection by the public at all reasonable times.

Regulation of washing of clothes by washermen.

[1][**133A.** (*1*) The Municipality may, by public notice, prohibit the washing of clothes by washermen in the exercise of their calling, except at such places as it shall appoint for this purpose ; and when any such prohibition has been made, no person who is, by calling, a washerman shall wash clothes at any place not appointed for this purpose by the Municipality, except for such person himself or for the owner or occupier of such place.

[1] Section 133A was inserted by Bom. 12 of 1931, s. 2 (*viii*).

(*2*) The Municipality shall provide suitable places for the exercise by washermen of their calling and may require payment of such fees for the use of any such place as shall from time to time be determined by it. Washing place to be provided by the Municipality for washermen.

(*3*) The Municipality shall, before issuing any public notice under sub-section (*1*), publish in such manner as shall in its opinion be sufficient, for the information of persons likely to be affected thereby, a list of washing places proposed to be provided under sub-section (*2*), together with a notice specifying a date on or after which the list will be taken into consideration ; and shall, before finally fixing the said places, receive and consider any objection or suggestion in respect there to which may be made in writing by any person before the date so specified.]

134. (*a*) Whoever, in disobedience of any order of the Municipality under section 133, or of any by-laws, bathes in any stream, pool, tank, reservoir, well, cistern, conduit or acqueduct belonging to the Municipality, or washes, or causes to be washed therein, any animal or anything whatever, or throws, puts or casts or causes to enter therein any animal or anything or causes or suffers to run, drain or be brought thereinto anything that is, or may become, a nuisance, or does anything whatsoever whereby any water therein shall be in any degree fouled or corrupted, and Fouling water.

(*b*) whoever without permission of the Municipality, steeps in any tank, stream, or ditch within, or on the boundary of, the municipal district any animal, vegetable or mineral matter likely to render the water of such tank, stream or ditch offensive or a nuisance,

shall be punished with fine which may extend to fifty rupees.

135. When any pool, ditch, tank, pond, well, hole or any waste or stagnent water, or any channel or receptacle of foul water, or other offensive or injurious matter, whether the same be within any private enclosure or otherwise, shall appear to the Municipality to be likely to prove injurious to the health of the inhabitants or offensive to the neighbourhood, the Municipality may by written notice require the owner of the same to cleanse, fill up, drain off or remove the same, or to take such measures as shall, in their opinion, be necessary to abate or remove the nuisance. Abatement of nuisances.

136. Whoever, except with the written permission of the Municipality, and in the way, if any, enjoined in such permission, stores or uses night-soil or other manure or substance emitting an offensive smell, shall be punished with fine which may extend to twenty-five rupees. Using offensive manure, etc.

137. Whoever tethers cattle or other animals, or causes or suffers them to be tethered by any member of his family or household, in any public street or place so as to obstruct or endanger the public traffic therein, or to cause a nuisance, or who causes or suffers such animals to stray about without a keeper, [1][shall, on conviction, be punished— Tethering cattle, etc.

(*a*) for a first offence, with fine which may extend to one hundred rupees ;

(*b*) for any subsequent offence, with fine which may extend to two hundred and fifty rupees].

[2][**137A.** Whoever feeds any animal which is kept for dairy purposes or is intended for human food on excrementitious matter, stable-reruse, filth or other offensive matter, or permits such animal to feed or to be fed on such matter, shall be punished with fine which may extend to fifty rupees.] Feeding animals on filth.

[3][**137B.** (*1*) If it shall appear to the Municipality at any time that nuisance or annoyance is caused to the public by the keeping of pigs within the limits of the Provision as to keeping of pigs.

[1] This portion substituted for the words "shall be punished with fine which may extend to twenty five rupees" by Bom. 26 of 1953, s. 11.

[2] Section 137A was inserted by s. 22 of the Bombay District Municipal Amendment Act, 1914, Bom. 8 of 1914.

[3] Section 137B was inserted by Bom. 52 of 1949, s. 26.

municipal district, the Municipality may direct by public notice that no person shall, without the written permission of the Municipality, or otherwise than in conformity with the terms of such permission, keep any pigs in any part of the district.

(*2*) Whoever shall after such direction keep any pigs in any place within the municipal district without the permission required as aforesaid, or otherwise than in accordance with the terms thereof, shall be punished with fine which may extend to fifty rupees.

(*3*) Any pigs found straying may be forthwith destroyed and the carcass thereof disposed of as the Municipality shall direct. No claim shall lie for compensation for any pigs so destroyed.]

Consumption of smoke.

138. (*1*) It shall be lawful for the Municipality to direct by public notice that every furnace employed, or to be employed, in any works or buildings used for the purpose of any trade or manufacture whatsoever within the limits of the Municipal district, whether a steam-engine be or be not used or employed therein, shall in all cases be constructed, supplemented or altered so as to consume or burn, or reduce as far as may be practicable, the smoke arising from such furnace.

(*2*) If any person shall after such direction use, or permit to be used, any such furnace not so constructed, supplemented, or altered, or shall so negligently use, or permit to be used, any such furnace as that the smoke arising therefrom shall not be effectually consumed or burnt as far as may be practicable, every person so offending, being the owner or occupier of the said works or buildings, or being an agent or other person employed by such owner or occupier for managing the same, shall be punished with fine which may extend to fifty rupees, and upon any subsequent conviction to five hundred rupees :

Provided that nothing in this section shall be held to apply to locomotive engines used for the purpose of traffic upon any railway or for the repair of roads.

(*7*) *Regulation of markets, sale of food, etc.*

Licensing markets and slaughter-houses.

139. (*1*) It shall be lawful for the Municipality to direct that no place shall be used as a market for the sale of animals, meat, fish, fruit or vegetables intended for human food, or as a slaughter-house, excepting the public markets or slaughter-houses constructed or opend by the Municipality, or such other markets or slaughter houses as may have been licensed in writing by the Municipality, who may, at their discretion from time to time, grant, suspend, withhold or withdraw such licences, either generally or in individual instances.

[1][(*2*) In any municipal district in which by-laws made under clause (*b*) of sub-section (*1*) of section 48 are in force, no person shall use any place for any of the purposes specified in sub-clause (*i*), (*ii*), [2][*iia*], or (*iii*) of clause (*b*) aforesaid without a license duly obtained from the Municipality and except in accordance with the conditions of such licence.

(*3*) Whoever uses or permits the use of any place contrary to such by-laws or without the licence required as aforesaid, or in contravention of any of the conditions on or subject to which such license was granted or during the suspension or after the withdrawal of such license, shall be punished with fine which may extend to twenty-five rupees ;]

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[1] Sub-sections (*2*) and (*3*) were substituted for the original sub-sections (*2*) and (*3*) by Bom. 52 of 1949, s. 27 (*i*).

[2] These brackets, figures and letter were inserted by Bom. 29 of 1955, s. 3 Second Schedule.

(*4*) Upon a conviction being obtained in respect of any place [1][under sub-section (*3*)] the Magistrate shall, on the application of the Municipality, but not otherwise, order such place to be closed, and thereupon appoint persons, or take other steps, to prevent such place being so used, and every person, who so uses or permits the use of a place after it has been so ordered to be closed, shall be punished with a fine which may extend to five rupees for each day during which he continues so to use, or permit such use of, the place after it has been so ordered to be closed.

[2]* * * * * *

Opening, closing and letting of markets and slaughter-houses.

140. (*1*) The Municipality may from time to time open or close any public market or slaughter-house. They may also either take stallage or other rents or fees for the use by any person of any such market or slaughter-house, or from time to time sell by public auction or otherwise the privilege of occupying any stall or space in, or of otherwise using, any such market or slaughter-house.

(*2*) Any person who, without the permission or licence of the Municipality, shall sell or expose for sale any article in the said markets or use the said slaughter-houses, shall be punished with fine which may extend to twenty-five rupees.

Farming of market and slaughter-house rents.

[3][**140.A** It shall be lawful for the Municipality to lease by public auction or private contract the collecting of any rent or fees which may be imposed under section 140 :

Provided that the lessee shall give security for the due fulfilment of the conditions of the lease.]

Power to remove persons from municipal markets.

[4][**140B.** If any officer specially empowered in this behalf by the Municipality is satisfied that any person occupying any stall or space in any market is in unauthorised occupation of the stall or space or continues to occupy the stall or space after authority to occupy has ceased, he may, with the previous sanction of the Municipality, require such person to vacate the stall or space within such time as may be mentioned in the requisition and if such person fails to comply with the requisition, such person may, in addition to any penalty which may be imposed under this Act, be summarily removed from the stall or space.]

Slaughter-houses, etc., beyond municipal limits.

141. It shall be lawful for the Municipality, with the sanction of the Commissioner or, if authorized by him, of the Collector, to establish slaughter-houses or places for the disposal of carcasses of animals, beyond the limits of the municipal district, and all provisions of this Act and of by-laws in force thereunder relating to such places within municipal limits, shall have full force therein, as if such places were within the municipal limits.

Search for and inspection of unwholesome articles.

142. (*1*) The president, vice-president or any councillor or officer authorized by the Municipality in this behalf—

(*a*) may at all reasonable times enter into any place for the purpose of inspecting, and may inspect, any animals, carcasses, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, flour, milk, ghee, butter or other articles

[1] These words, brackets and figure were substituted for the words " which has, without, or during the suspension or after the withdrawal of, a licence, been used or permitted to be used as a shop for such sale as aforesaid " by Bom. 52 of 1949, s. 27 (*ii*).

[2] Sub-section (*5*) was deleted, *ibid.*, *s.* 27 (*iii*).

[3] Section 140A was inserted, *ibid.*, s. 28.

[4] Section 140B was inserted by Bom. 26 of 1953, s. 12.

intended for human food or drink or for medicine, whether exposed or hawked about for sale, or deposited in, or brought to, any place for the purpose of sale or of preparation for sale, or may enter into and inspect any place used as a slaughter-house, and may examine anything which may be therein ; and,

(*b*) in case any such animals, carcasses, or other articles before mentioned appear to be diseased or unsound or unwholesome or unfit for human food or drink or medicine may seize the same.

Any article which is of a perishable nature may, under the orders of the president, vice-president or chairman of the managing committee or of a committee appointed under section 29 to exercise all or any of the powers vested in the Municipality under this sub-chapter [1][or of the Municipal Commissioner, if any,] if in his opinion it is diseased, unsound, unwholesome or unfit for food, drink and medicine, forthwith be destroyed.

Every animal and every article which is not of a perishable nature, if seized as aforesaid, shall be taken before a Magistrate.

If it appears to the Magistrate upon sufficient evidence that any such article is diseased or unsound or unwholesome or unfit for human food, drink or medicine, the owner or person in whose possession it was found, not being merely bailee or carrier thereof, shall, if in such case the provisions of section 273 of the [2]Indian Penal Code do not apply, be punished with fine which may extend to one hundred rupees, and the Magistrate shall cause such article to be destroyed or to be so disposed of as to prevent its being exposed for sale or used for food or drink or medicine. XLV of 1860.

Adulterated articles for food or drink.

[3](*2*) In every municipal district in which this sub-section is, by virtue of a notification [4][issued] under the Bombay Prevention of Adulteration Act, 1899, [5][as if the sub-section were part of section 5 of that Act,] for the time being in force, and applicable to food of all kinds or of any specified kind, Bom. II of 1899.

if any article to which this sub-section is applicable as aforesaid, is intended for food or drink, and is in any place mentioned in sub-section (*1*), the president, vice-president or officer authorized as aforesaid, in case such article appears not what it is represented to be, may seize the same, and if it appears to a Magistrate upon sufficient evidence that such article is not what it is represented to be, such Magistrate may order the same to be destroyed or to be so disposed of as to prevent its being exposed for sale or used for food or drink, and the owner thereof or the person in whose possession the same was found, not being merely carrier or bailee thereof, shall, if in such case the provisions of section 273 of the [2]Indian Penal Code do not apply, be punished with fine which may extend to one hundred rupees. XLV of 1860.

Explanation.—If such article having been exposed or stored in, or brought to any place mentioned in sub-section (*1*) for sale as ghee, contains any substance not exclusively derived from milk, it shall be deemed to be, for the purposes of this sub-section, an article which is not what it is represented to be :

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[1] These words were inserted by s. 23 of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

[2] Central Acts, Vol. I.

[3] On coming into operation of the provisions of the Bombay Prevention of Adulteration Act, 1925 (Bom. 5 of 1925), in any local area in respect of any article of food, sub-section (2) shall be deemed to be repealed in that area in respect of such article. (See section 20 and Schedule B of Bom. 5 of 1925.)

[4] This word was inserted by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. 3 of 1902).

[5] These words and figure were inserted, *ibid.*

Provided that when any article of food referred to in this sub-section appears to the Magistrate not to be what it is represented to be, solely by reason of the fact that there has been added to it some substance not injurious to health, no offence shall be deemed to have been committed by the owner of the article or the person in whose possession the same is found, if such owner or person proves to the satisfaction of the Magistrate— Protection to persons acting in good faith.

(*a*) that such substance has been added to the article of food, because the same is required for the production or preparation thereof, as an article of commerce in a state fit for carriage or consumption, and not fraudulently to increase the bulk, weight, or measure of the food or conceal the inferior quality thereof, or

(*b*) that in the process of production, preparation or conveyance of such article of food, the extraneous substance has unavoidably become intermixed therewith, or

(*c*) that, by a label distinctly and legibly written or printed on or with the said article of food or by other means of public description, he has given sufficient notice that such substance has been so added, or

(*d*) that—

(*i*) the said article was purchased by him with a written warranty that it was of a certain nature, substance and quality.

(*ii*) he had no reason to believe that it was not of such nature, substance and quality as aforesaid, and

(*iii*) it was not exposed, hawked about, or brought for sale by him otherwise than as an article of the nature, substance and quality specified in the written warranty, and was in the same state in which he purchased it.

(*3*) In all prosecutions under this section the Magistrate shall refuse to issue a summons for the attendance of any person accused of an offence against its provisions unless the summons is applied for within a reasonable time from the alleged date of the offence of which such person is accused. Application for summons to be refused if not applied for within reasonable time.

[1]**143.** The president, vice-president, or any councillor[2] or officer authorised by the Municipality in this behalf, may at all reasonable times enter into any place used for the sale of articles used for human food, and inspect the weights and measures in use, and if the person in charge be found in possession of any false or defective weights or measures, or of weights and measures by the use of which the public may be defrauded, he shall be punished with fine which may extend to two hundred and fifty rupees. False weights and measures.

[3][(*7A*) *Regulation of dairies and cattle sheds.*

[3]**143A.** (*1*) Except under and in accordance with the terms of a license from the municipality, no person shall— Licensing of dairies.

(*a*) carry on the trade or business of a dealer in, or importer or seller of, sweetmeats, milk, butter or other milk products, or

(*b*) use or permit to be used for the purposes of trade, any place for stabling milch cattle or for storing or selling milk or for making, storing or selling butter.

(*2*) The municipality may grant such license subject to such conditions as it may deem fit and may at any time withdraw or suspend such licence on giving one month's notice to the licensee:

Provided that where the licensee has contravened any of the conditions of the license, the license may be withdrawn or suspended without any such notice.

(*3*) Whoever carries on the trade or business of a dealer in, or importer or seller of, sweetmeats, milk, butter or other milk products or so uses or permits to be used any place for any of the aforesaid purposes without, or in contravention of any of the conditions of, or after the withdrawal of, or during the suspension of, such license, shall be punished with fine which may extend to fifty rupees and in the case of a continuing offence with additional fine which may extend to ten rupees

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[1] On coming into force of Part VI of the Bombay Weights and Measures Act, 1932 (Bom. 15 of 1932) in any area, for section 143, the following shall be substituted, namely:—

"143. *Powers of inspection of weights and measures, etc.*—The president, vice-president, or any councillor or officer authorised by the municipality in this behalf may at all reasonable times enter into any place *(other than a place prescribed by rules made under the Bombay Weights and Measures Act, 1932), where weights or measures or weighing or measuring instruments are used or kept for purposes of trade and inspect such weights or measures or weighing or measuring instruments."

See S. 47, 11 Sch. of Bom. 15 of 1932.

*These words, figures and brackets were inserted by Bom. 9 of 1935, s. 6.

[2] The comma after the word "councillor" was omitted by s. 24 of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

[3] The brackets, figures and words "(*7A*) *Regulation of dairies and cattle sheds*" and section 143 were inserted by Bom. 52 of 1949, s. 29.

for each day during which such offence is continued after the date of the conviction for the first such offence.

(*4*) Upon a conviction being obtained in respect of any place under sub-section (*3*) the Magistrate shall, on the application of the municipality but not otherwise, order such place to be closed, and thereupon, appoint persons or take other steps to prevent such place being so used.]

(*8*) *Prevention of dangerous diseases.*

Powers which may at any time be conferred.

144. (*1*) The [1][Provincial Government] [2][in the case of City Municipalities, and the Commissioner in other cases,] may at any time confer by notification on any Municipality designated therein, all or any of the powers specified in sub-section (*2*), and such Municipality shall, subject to all such limitations, restrictions, and conditions, if any, as the [1][Provincial Government] [2][or the Commissioner, as the case may be,] in the same or in any subsequent notification may prescribe in such behalf, exercise within the municipal district every power so conferred on them, for such period as may be specified in this behalf in any such notification, or if no period is so specified then until such power is withdrawn.

(*2*) The powers, all or any of which may be conferred under the preceding sub-section, are :—

(*a*) power by orders, which may be either of special or general application, to direct that every medical practitioner, who knows or may have reason to believe that any person whom he has visited in his professional capacity in any dwelling not being a hospital, or that every manager of any factory or educational institution, or every head of a household, who knows or has reason to believe that any person who resides in any dwelling under the management or control of any such manager or head of a household, is suffering from any illness which may reasonably be supposed to be a dangerous disease, shall give information of the same with the least practicable delay to such person as may be designated by the Municipality in that behalf ;

(*b*) power to direct or authorize the inspection, without notice, or with such notice as to the person directed or authorized to inspect, appears reasonable, any place in which any dangerous disease is reported or suspected to exist, and the taking of measures to prevent the spread of the disease beyond such place ;

(*c*) power to prohibit the removal of water for the purpose of drinking from any well, tank or other place which may appear to the Municipality, on the advice of a medical officer, likely to engender or cause the spread of any dangerous disease ; .

(*d*) power to direct or cause the removal, on a certificate signed by any duly qualified medical practitioner authorized by the Municipality in this behalf, of any person who is without proper lodging or accommodation, or who is lodged in a room or set of apartments occupied by more than one family, and who is suffering from a dangerous disease, to any hospital or place at which persons suffering from the said disease are received for medical treatment ;

(*e*) power to require by written notice the owner or occupier of any building or part of a building, or a person owning or in charge of any article therein, to cleanse or disinfect such building or part thereof or article, either at his own expense

[1] The words " Provincial Government " were substituted for the words " Governor in Council ". by the Adaptation of Indian Laws Order in Council.

[2] These words were inserted by Sch. I of the Bombay Decentralisation Act, 1915 (Bom. 3 of 1915).

or in case of poverty, or for other cause which the Municipality in the circumstances of the case consider reasonable, at the expense of the Municipality ;

(*f*) power to provide the means, and to prescribe places, for disinfecting or washing bedding or other articles which have been exposed to infection from any dangerous disease, and to direct the destruction thereof ;

(*g*) power—

(i) to provide and maintain suitable conveyances for the free carriage of persons suffering from any dangerous disease, and

(ii) when such provision is made, to prohibit the conveyance of such persons in all or any public conveyances, and

(iii) to direct that any conveyances that may at any time be used for conveying any such person shall be immediately disinfected ;

(*h*) power to prohibit—

(i) any person suffering from any dangerous disease from wilfully exposing himself, without proper precautions against spreading the said disease, in any street or in any school or factory, or in any inn, dharamshala, theatre, market or other place of public resort, or

(ii) any person in charge of any person so suffering from so exposing such sufferer ;

(*i*) power to prohibit any person from removing to another place, or transferring to another person, except for the purpose of disinfection, any article which the person prohibited knows, or has reason to believe, has been exposed to infection of any kind whatsoever from any dangerous disease ;

(*j*) power to prohibit the letting of or the providing of accommodation in any hotel, inn, dharamshala or serai, in which a person has, or in which there is reason to believe that a person has, been suffering from a dangerous disease, unless and until the person desiring so to let or provide accommodation shall have had the building, or part thereof, and any article therein likely to retain infection, disinfected to the satisfaction of the Municipality or of such officer as the Municipality appoint in this behalf;

(*k*) power, with the previous permission in each case of a Magistrate exercising not less than second class powers, to destroy any insanitary huts or sheds in which there is reason to believe that persons have been suffering from dangerous disease.

(*3*) The Municipality may, in their discretion, give compensation to any person who sustains substantial loss by the destruction of any property under this section, but, except as allowed by the Municipality, no claim for compensation shall lie for any loss or damage caused by any exercise of the powers specified therein.

Penalties for disobedience to an order passed in exercise of such powers.

(*4*) Any person who in a municipal district disobeys any order which is for the time being in force therein, and which has been passed by the Municipality in exercise of any power conferred on such Municipality under this section, or obstructs any officer of the Municipality or other person acting under the authority of the Municipality in carrying out executively any such order, shall be punished with fine which may extend to two hundred rupees.

Duties of Municipality on threatened or actual outbreak of dangerous disease.

145. (*1*) In the event of the municipal district or any part thereof being at any time threatened or visited with an outbreak of any dangerous disease the Municipality shall take all such measures as they deem necessary for the purpose of preventing, meeting, mitigating or suppressing such outbreak.

(*2*) In such event as aforesaid [1][the Commissioner], may by special notification, declaring that such municipal district is threatened or visited with an outbreak of a dangerous disease, confer on the Municipality all or any of the additional powers specified in the following sub-section, and such Municipality shall, subject to such limitations, restrictions and conditions, if any, [2][as the Commissioner] in the same or in any subsequent notification may prescribe, exercise every such power so conferred on them until the same is withdrawn by means of a like notification.

(*3*) The powers all or any of which may be conferred under the preceding sub-section are—

(*a*) power to order, subject to the conditions,

(*i*) that the permission of [3][a Taluka Magistrate] shall be in each case first obtained, and

(*ii*) that accommodation for all persons to whom the order refers is available, or shall be provided, elsewhere,

the evacuation of an infected building used as a dwelling, or of any part thereof, or of any building so used adjacent to such building, by the person or persons residing, whether habitually or temporarily, therein ;

(*b*) power to direct the examination by a medical officer of persons, and if necessary, the disinfection of the clothing, bedding or other suspicious articles belonging to persons, either arriving from places outside the municipal district or residing in any building adjacent to any infected building, and to direct that any such person shall give his address and present himself daily for medical examination at such time and places as may be prescribed, for a period not exceeding ten days ;

(*c*) power to prohibit either generally, or by special order in any individual case, assemblages consisting of any number of persons exceeding fifty, in any place whether public or private, or in any circumstances, or for any purpose, if in the opinion, recorded in writing, of the Civil Surgeon of the district or other medical officer appointed by the [4][[5][State] Government] on this behalf, such assemblages in such place, in such circumstances or for such purpose, would be likely to become a means of spreading the disease or of rendering it more virulent.

(*4*) The Municipality may in their discretion give compensation to any person who sustains substantial loss by the destruction of any property under this section ; but except as allowed by the Municipality, no claim for compensation shall lie for any loss or damage caused by any exercise of the powers specified therein.

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[1] These words were substituted for the words " the Provincial Government in the case of City Municipalities, and the Commissioner in other cases" by Bom. 52 of 1949, s. 30(*1*).

[2] These words were substituted for the words " as the Provincial Government or the Commissioner as the case may be" *ibid*, s. 30(*2*).

[3] These words were substituted for the words " a Magistrate exercising not less than second class powers " by Bom. 8 of 1954, s. 2, Schedule—Part III.

[4] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

[5] This word was substituted for the word "Provincial " by the Adaptation of Laws Order, 1950.

(5) If in any municipal district in which such declaration under sub-section (2) as aforesaid is for the time being in force, any person— Penal clauses.

(a) knowingly disobeys any order which for the time being is in force in such district and which has been passed by the Municipality in exercise of any power conferred on them under section 144 or under this section, or

(b) obstructs any officer of the Municipality or other person acting under the authority of the Municipality in carrying out executively any such order,

such person shall be punished with fine which may extend to one thousand rupees.

146. (1) The [1][[2][State] Government] [3][or the Commissioner as the case may be] may at any time— Withdrawal and modification of powers and orders.

(a) withdraw any power conferred under section 144 or under section 145 ;

(b) cancel or modify any limitation, restriction or condition prescribed in respect of any such powers ; or

(c) cancel any order passed by a Municipality in exercise of any such power.

(2) Every order passed by a Municipality in exercise of any such power as aforesaid shall, on the withdrawal of such power, cease to be in force in the municipal district.

147. If in any municipal district any infections disease amongst cattle, sheep or goats breaks out, or if the introduction of any such disease appears to be likely the Municipality shall take all such measures as they deem necessary for the purpose of preventing, meeting, mitigating or suppressing the disease or the outbreak or introduction thereof. Duties of Municipality in respect of diseases among cattle, sheep or goats.

148. (1) Whenever the Municipality consider the interior of a building is so overcrowded as to be, or to be likely to become, dangerous or prejudicial to the health of the inhabitants of that or of any neighbouring building, the Municipality may cause proceedings to be taken before [4][a Taluka Magistrate] for the purpose of obtaining an order to prevent such overcrowding. Proceedings to abate the over crowding of the interiors of buildings.

(2) Such Magistrate may, on the production of a certificate by a medical officer stating his opinion that the overcrowding complained of is likely to cause disease, or risk of disease and after such further inquiry, if any, as may appear to such Magistrate necessary require the owner of the building within a reasonable time, not being more than six weeks or less than ten days to abate the number of lodgers, tenants or other inmates of the said building to such extent as he shall deem necessary to prescribe, or may pass such other order as he shall deem just and proper. Procedure of Magistrate.

(3) If the owner of the said building shall have sublet the same, the landlord of the lodgers, tenants, or other actual inmates of the same shall for the purposes of this [5][section] be deemed to be the owner of the building.

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[1] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word " Provincial " by Adaptation of Laws Order, 1950.

[3] These words were inserted by s. 2, Sch. I, Pt. II of the Bombay Repealing and Amending Act, 1919 (Bom. 2 of 1919).

[4] These words were substituted for the words " a Magistrate of the first class" by Bom. 8 of 1954, s. 2 Schedule—Part III.

[5] This word was substituted for the word " sub-section " by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. 3 of 1902).

(*4*) It shall be incumbent on any owner, to whom a requisition is issued under sub-section (*2*), forthwith to give to so many of the lodgers, tenants or other actual inmates of the said building as may be necessary to fulfil the conditions prescribed thereby, written notice to vacate the said building within the period specified in such requisition, and any such lodgers, tenants or inmates receiving such notice shall be bound to comply therewith.

(*5*) Any owner who after the date specified in any requisition issued under sub-section (*2*) permits the overcrowding of any building in contravention of such requisition, and any person who omits to vacate any such building in accordance with notice given to him under sub-section (*4*), shall be punished with fine which may extend to ten rupees for each day subsequent to the date specified in such requisition during which such overcrowding, or such omission to vacate, continues.

Special powers which may be conferred by the Provincial Government in respect of over-crowded areas notified by the Provincial Government.

149. (*1*) If the [1][Provincial Government] is of opinion that risk of disease has arisen or is likely to arise, either to any occupier in, or to any inhabitants in the neighbourhood of, any area by reason of any of the following defects, namely—

(*a*) the manner in which either buildings, or blocks of buildings, already existing or projected therein, are, or are likely to become crowded together ; or

(*b*) the impracticability of cleansing any such buildings or blocks of buildings, already existing or projected ; or

(*c*) the want of drainage or scavenging, or the difficulty of arranging therein for the drainage or scavenging of any such buildings or blocks or area as aforesaid ; or

(*d*) the narrowness, closeness, bad arrangement or bad condition of the streets or buildings or groups of buildings ;

[2][it] may by notification confer on the Municipality, to which such area is subject, all or any of the powers specified in sub-section (*2*), and may, if [2][it] deem necessary, at any time make rules prescribing any limitations, restrictions, modifications, conditions or regulations, subject to which the Municipality shall exercise within that area all powers so conferred, unless and until those powers are withdrawn by a subsequent notification of the [1][Provincial Government].

(*2*) The powers all or any of which may be conferred on a Municipality under sub-section (*1*) are as follows :—

(*a*) power, when any building or block already existing or in course of erection, by reason of any defect specified in sub-section (*1*), has given or is in the opinion of the Municipality likely to give rise to such risk as aforesaid, to require by a written notice, to be fixed upon some conspicuous part of such building or block, and addressed as the Municipality deem fit either to the owners thereof, or to the owners of the land on which such building or block is erected or is in course of erection, that the persons so addressed shall, within a reasonable time as shall be specified in the notice, either pull down or remove the said building or block, or

[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] The word "it" was substituted for the word "he", *ibid.*

execute such works or take such action in connection therewith as the Municipality deem necessary to prevent all such risk of disease;

(*b*) power by municipal or other agency, to pull down or remove the said building or block, or to execute such works or take such action, if the persons addressed in the said notice neglect so to do within the time specified therein;

(*c*) power, subject to a right of appeal to the Commissioner, whose decision shall be conclusive, to prohibit by written notice addressed to the owner and occupier of any such site or space, and by general notice published in the manner provided in sub-section (*3*) of section 154, the erection of any building of or any building exceeding such dimensions as may be specified,

(*i*) on the site of any building which has, in whole or in part, in exercise of the power specified in clause (*a*), been pulled down, or

(*ii*) on any space not occupied by buildings, whether such space is private property or not and whether it is enclosed or not,

if the Municipality consider that in order to prevent such risk as aforesaid, such site or space should not be built upon, and either

(*a*) to acquire such site or space, or

(*b*) to prescribe such conditions as may be deemed necessary as to the use which the owner or occupier may make or permit to be made thereof:

Provided that in every case compensation, the amount of which shall, in case of dispute, be ascertained and determined in the manner provided in section 160, shall be paid to any person whose rights are affected by such prohibition.

(*3*) When, in pursuance of any notice under sub-section (*2*), any building has been pulled down, the Municipality shall, unless it has been erected contrary to any provision of this Act or of any by-law in force thereunder, pay to such owner or occupier as may have sustained damage thereby reasonable compensation, the amount of which shall, in case of dispute, be ascertained or determined in the manner provided in section 160.

(*4*) In making any rule under sub-section (*1*) the [1][Provincial Government] may prescribe a fine not exceeding five hundred rupees for every breach, and a further fine not exceeding twenty rupees a day for every continuing breach of any order made or conditions imposed by the Municipality in exercise of the powers conferred upon them under this section or in pursuance of such rules.

Closing of places for disposal of the dead.

150. (*1*) If the Municipality be of opinion that any place used for the disposal of the dead is in such a state as to be, or to be likely to become, injurious to health, they may submit their opinion with the reasons therefor to the [2][Commissioner] and the [2][Commissioner] ther upon, after such further inquiry, if any as he shall deem fit to cause to be made, may by notification direct that such place shall cease to be so used from such date as may be specified on that behalf in the said notification.

(*2*) A copy of the said notification together with a translation thereof in the vernacular of the district shall be published in the local newspapers, if any, and

[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the words "Governor in Council" by Sch. I of the Bombay Decentralization Act, 1915 (Bom. 3 of 1915).

shall be posted up at the municipal office and in one or more conspicuous spots on or near the place to which the same relates.

(*3*) Any person who buries or otherwise disposes of any corpse in any such place, after the date specified in the said notification for closure of the same, shall be punished with fine which may extend to one hundred rupees.

(*9*) *Nuisances from certain trades and occupations.*

151. (*1*) If it be shown to the satisfaction of the Municipality that any building or place used or intended by any person to be used, Regulation of certain trades.

(*a*) for boiling or storing offal, blood, bones or rags ;
(*b*) for salting, curing and storing fish ;
(*c*) for storing hides, horns or skins ;
(*d*) for tanning ;
(*e*) for the manufacture of leather or leather goods ;
(*f*) for dyeing ;
(*g*) for melting tallow or sulphur ;
(*h*) for washing or drying wool or hair ;
[1][(*i*) for manufacturing or preparing by any process whatever, bricks, pottery or lime ;]
(*j*) for soap-making ;
(*k*) for oil-boiling ;
(*l*) as a manufactory of sago ;
(*m*) as a distillery ;
(*n*) for storing hay, straw, fodder, wood, coal or other combustible material ;
(*o*) as a manufactory or place of busines of any other kind, from which offensive or unwholesome smells arise, or which may involve risk of fire,

is, or is likely by reason of such use and of its situation to become, a nuisance to the neighbourhood, or is so used or is so situated as to be likely to be dangerous to life, health or property, the Municipality may by written notice require the owner or occupier—

(*i*) at once to discontinue the use of, or at once to desist from carrying out, or allowing to be carried out, the intention so to use, such place, or

(*ii*) to use it in such manner, or after such structural alterations, as the Municipality in such notice prescribes, so that it may not become, or may be no longer, a nuisance or dangerous.

(*2*) Whoever, after notice has been given under sub-section (*1*), uses any place or permits it to be used in such a manner as to be a nuisance to the neighbourhood or dangerous to life, health or property, shall be punished with fine which may extend to two hundred rupees, and with further fine which may extend to forty rupees for every day on which such use or permission of use is continued after the date of the first conviction. Liability to penalty after notice.

(*3*) Upon a conviction being obtained under this section the Magistrate shall, on the application of the Municipality, but not otherwise, order such place to be closed, and thereupon appoint persons or take other steps to prevent such place being used for any purpose mentioned in sub-section (*1*).

[1] Clause (*i*) was substituted for the original by Bom. 26 of 1953, s. 13.

Penalty for unlicensed places in district in which by-laws under section 48 (*1*) (*b*) (*iii*) are in force.

(*4*) Whoever uses without a licence, or during the suspension or after the withdrawal of a licence, any place for any purpose mentioned in sub-section (*1*) in any municipal district in which by laws are for the time being in force prescribing the conditions on [1][or] subject to which, the circumstances in which, and the areas [1][or] localities in respect of which, licences for such use may be granted, refused, suspended [1][or] withdrawn, shall be punished with fine which may extend to fifty rupees and with further fine which may extend to ten rupees for every day on which such use is continued after the date of first conviction.

Prohibition of use of steam-whistles, etc.

[2][**151A.** (*1*) No person shall use or employ in any factory or any other place any whistle or trumpet operated by steam or mechanical means for the purpose of summoning or dismissing workmen or persons employed except under and in accordance with the conditions of a licence from the Municipality.

(*2*) The Municipality may grant such licence subject to such conditions as they may deem fit and may at any time withdraw such licence on giving one month's notice to the licensee :

Provided that where the licensee has contravened any of the conditions of the licence, the licence may be withdrawn without any such notice.

(*3*) Whoever uses or employs any such whistle or trumpet as aforesaid without, or in contravention of any of the conditions of, or after the withdrawal of, such license shall be punished with fine which may extend to fifty rupees.]

Loitering or importuning for purposes of prostitution.

[3][**152.** Whoever in any street or public place within the limits of a municipal district loiters for the purpose of prostitution, or importunes any person to the commission of sexual immorality, shall be punished with fine which may extend to fifty rupees :

Provided that no Court shall take cognizance of an offence under this section except on the complaint of the person importuned, or of a Police officer not below the rank of an officer in charge of a police station and specially authorized in this behalf by the District Magistrate or by the Municipality.]

Brothels.

[4][**153.** In any municipal district,

(*a*) any part of which is within three miles of a cantonment, or

(*b*) to which on the application of the Municipality the [5][[6][State] Government] may by notification have declared this section to apply,

any [7][Executive Magistrate], on receiving information that a house within the limits of such district is used as a brothel, may summon the owner or occupier of such house, and on being satisfied that the house is so used, may order the owner or occupier to discontinue such use of it, and, if such owner or occupier shall fail to comply with such order within five days, may impose upon him a fine not exceeding twenty-five rupees for every day thereafter that the house shall be so used :

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[1] This word was substituted for the word " and " by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. 3 of 1902).

[2] Section 151A was inserted by s. 25 of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

[3] In any municipal district to which section 3 of the Bombay Prevention of Prostitution Act, 1923 (Bom. 11 of 1923), may be extended under sub-section (*2*) of section 1 of the said Act, section 152 of Bom. 3 of 1901 shall be deemed to have been repealed from date of such extension. (*Vide* Bom. 11 of 1923, s. 13 (*2*).)

[4] For notification applying s. 153 to the Satara Suburban Municipal District, *see Bombay Government Gazette*, 1903, Part I-A, p. 89.

[5] The words " Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[6] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[7] These words were substituted for the words" Magistrate of the first class " by Bom. 8 of 1954, s. 2, Schedule—Part III.

Provided that action under this section shall be taken only—

(*a*) with the sanction or by the order of the District Magistrate, or

(*b*) on the complaint of three or more inhabitants of the municipal district residing in the vicinity of the house to which the complaint refers.

(10) Service of notices and penalties on non-compliance therewith.

Service of notices, etc., addressed to individuals.

154. (*1*) The service of every notice, and the presentation of every bill under this Act, on any person or to any person to whom it is by name addressed, shall, in all cases not otherwise specially provided for therein, be effected by a municipal officer or servant or other person authorized by the Municipality in this behalf—

(*a*) by giving or tendering the notice or bill to the person to whom it is addressed ; or

(*b*) if such person is not found, by leaving the notice or bill at his last known place of abode, if within the municipal limits, or by giving or tendering the notice or bill to some adult [1]* member or servant of his family ; or

(*c*) if such person does not reside within the municipal limits, and his address elsewhere is known to the president or other person directing the issue of the notice or bill, then by forwarding the notice or bill to such person by registered post, under cover bearing the said address ; or

(*d*) if none of the means aforesaid be available, then by causing the bill or notice to be affixed on some conspicuous part of the building or land, if any, to which the bill or notice relates.

Service of notices on "owners" or "occupiers" of buildings and lands.

(*2*) When any notice under this Act is required or permitted by or under this Act to be served upon an owner or occupier of any building or land, it shall not be necessary to name the owner or occupier therein, and the service thereof, in cases not otherwise specially provided for in this Act, shall be effected either—

(*a*) by giving or tendering the notice to the owner or occupier, or if there be more owners or occupiers than one, to any one of them ; or

(*b*) if no such owner or occupier be found, then by giving or tendering the [2][notice] to some [1]* adult member or servant of the family of any such owner or occupier as aforesaid ; or

(*c*) if none of the means aforesaid be available, then by causing the [2][notice] to be fixed on some conspicuous part of the building or land to which the same relates.

Public and general notices how to be published.

(*3*) Every notice which this Act requires or empowers a Municipality to give or to serve either as a public notice, or generally, or by provisions which do not expressly require notice to be given to individuals therein specified, shall be deemed to have been sufficiently given or served if a copy thereof is put up in such conspicuous part of the municipal office during such period and in such other public buildings and places, or is published in such local papers or in such other manner, as the Municipality in by-laws in this behalf prescribes.

Defective form not to invalidate notice.

(*4*) No notice or bill shall be invalid for defect of form.

Execution of acts required to be done by any notice.

(*5*) When any notice under this Chapter requires any act to be done for which no time is fixed by this Act, the notice shall fix a reasonable time for doing the same.

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[1] The word "male" was deleted by Bom. 52 of 1949, s. 31.

[2] This word was substituted for the word "bill" by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. 3 of 1902).

(*6*) In the event of non-compliance with the terms of the notice it shall be lawful for the Municipality to take such action or such steps as may be necessary for the completion of the act thereby required to be done, and all the expenses therein incurred by the Municipality shall be paid by the person or persons upon whom the notice was served, and shall be recoverable in the manner provided in [1][section 160A].

Punishment for disobedience to orders and notices not punishable under any other section.

155. Whoever disobeys or fails to comply with any lawful direction given by any written notice issued by a Municipality under any power conferred by this Chapter, or fails to comply with the conditions subject to which any permission was given to him by the Municipality under any power so conferred, shall, if the disobedience or failure is not an offence punishable under any other section, be punished with fine which may extend to fifty rupees, and with further fine which may extend to five rupees for every day on which the said disobedience or failure continues after the date of the first conviction :

Provided that when the notice fixes a time within which a certain act is to be done, and no time is specified in this Act, it shall rest with the Magistrate to determine whether the time so fixed was a reasonable time within the meaning of this Act.

Municipality in default of owner or occupier may execute works and recover expenses.

156. (*1*) Whenever, under the provisions of this Act, any work is required to be executed by the owner or occupier of any building or land, and default is made in the execution of such work, the Municipality, whether any penalty is or is not provided for such default, may cause such work to be executed ; and the expenses thereby incurred shall, unless otherwise expressly provided in this Act, be paid to them by the person by whom such work ought to have been executed, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII either in one sum or by instalments as to the Municipality may seem fit :

Provided that—

Agreement for construction of drainage and water connections.

(*a*) whenever any drainage scheme or water-works scheme has been commenced by any Municipality, it shall be lawful for the Municipality, without prejudice to their powers under sub-section (*1*) or section 101 or any other provision of this Act, to make a special agreement with the owner of any building or land as to the manner in which the drainage or water-connection thereof shall be carried out, and pecuniary or other assistance, if any, which the Municipality shall render, and any payment agreed upon by the owner shall be recovered in accordance with the terms of such agreement, or, in default, in the manner described in sub-sections (*2*) and (*3*) :

Provided also that—

Improvement expenses.

(*b*) when an order has been passed under sub-section (*3*) of section 90, sub-section (*1*) of section 91, [2][sub-section (*2*)] or (*6*) of section 96 or under section 99, 101, 106 or 107 or when permission has been given under section 102, or when an arrangement has been made under proviso (*a*) of this sub-section, the Municipality may, without prejudice to any other powers under this Act, if they think fit, declare any expenses incurred as aforesaid by the Municipality to be

[1] The word, figures and letter "section 160A" were substituted for the word and figures "section 160" by s. 2 Sch. II, Pt. II of the Bombay Repealing and Amending Act, 1919 (Bom. 2 of 1919).

[2] This word, figure and brackets were substituted for the word, figure and brackets "sub-section (*1*)" by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. 3 of 1902).

improvement expenses. Improvement expenses shall be a charge upon the premises or land, shall be levied in such instalments as the Municipality decide including interest at the rate of six per cent, per annum and shall be recoverable in the manner described in sub-sections (*2*) and (*3*).

Power to levy charges on occupier who may deduct the same from his rent.

(*2*) If the defaulter be the owner of the building or land, the Municipality may, by way of additional remedy, whether a suit or proceeding has been brought or taken against such owner or not, require, subject to the provisions of sub-section (*3*) the payment of all or any part of the expenses payable by the owner for the time being, from the person who then, or any time thereafter, occupies the building or land under such owner ; and in default of payment thereof by such occupier on demand the same may be levied from such occupier, and every amount so leviable shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII ; every such occupier shall be entitled to deduct from the rent payable by him to his landlord so much as has been so paid by or recovered from such occupier in respect of any such expenses.

Occupiers not to be liable for more than the amount of rent due.

(*3*) No occupier of any building or land shall be liable to pay more money in respect of any expenses charged by this Act on the owner thereof, than the amount of rent which is due from such occupier for the building or land in respect of which such expenses are payable at the time of the demand made upon him, or which at any time after such demand and notice not to pay the same to his landlord, has accrued and become payable by such occupier, unless he neglect or refuse, upon application made to him for that purpose by the Municipality, truly to disclose the amount of his rent, and the name and the address of the person to whom such rent is payable ; but the burden of proof that the sum demanded of any such occupier is greater than the rent which was due by him at the time of such demand, or which has since accrued, shall be upon such occupier :

Provided that nothing herein contained shall be taken to affect any special contract made between any such occupier and the owner respecting the payment of the expense of any such works as aforesaid.

Occupiers, in default of owner, may execute works and deduct expenses from his rent.

157. Whenever default is made by the owner of any building or land in the execution of any work required to be executed by him, the occupier of such building or land may, with the approval of the Municipality, cause such work to be executed, and the expense thereof shall be paid to him by the owner, or the amount may be deducted out of the rent from time to time becoming due from him to such owner.

Proceeding if any occupier opposes the execution of the Act.

158. If the occupier of any building or land prevents the owner thereof from carrying into effect in respect of such building or land, any of the provisions of this Act, after notice of his intention so to carry them into effect has been given by the owner to such occupier, [1][any Executive Magistrate upon proof thereof, and upon application of the owner, may make an order in writing requiring such occupier to permit the owner to execute all such works, with respect to such building or land, as may be necessary for carrying into effect the provisions of this Act, and may also, if he thinks fit, order the occupier to pay to the owner the costs relating to such application or order ; and if, after the expiration of eight days from the date of the order, such occupier continue to refuse to permit such owner to execute such work, such occupier shall, for every day during which he so continues to refuse, be punished with a fine which may extend to fifty rupees ; and every such owner during the continuance of such refusal shall be discharged from any penalties to which he might otherwise have become liable by reason of his default in executing such works.

[1] These words were substituted for the words " any Magistrate " by Bom. 8 of 1954, s. 2, Schedule—Part III.

Entry for purposes of the Act.

159. It shall be lawful for the president or vice president, or any councillor or officer authorized by the Municipality for such purposes, to enter for the purposes of this Act, between sunrise and sunset, into and upon any building or land, as well for the purpose of making any survey or inspection they may be entitled to make as for the purpose of executing any work authorised by this Act to be executed by them :

Provided that, except when herein otherwise provided, no building or land which may be occupied at the time shall be entered unless with the consent of the occupier thereof, without twenty-four hours' written notice thereof having been given to the said occupier :

Provided also that in the case of buildings used as human dwellings, due regard shall be paid to the social and religious customs of the occupiers.

Arbitration in case of compensation, etc.

160. (*1*) [1][Save as expressly provided in section 160B, if a dispute arises] with respect to any [2][compensation or damages which are by this Act directed to be paid, the amount, and if necessary the apportionment of the same, shall be ascertained and determined by a panchayat of five persons, of whom two shall be appointed by the Municipality, two by the party [3][to or from whom such [2][compensation or damages may be payable or recoverable] and one, who shall be sir-panch, shall be selected by the members already appointed as above.

(*2*) If either party or both parties fail to appoint members, or if the members fail to select a sir-panch within one month from the date of either party receiving written notice from the other of claim to such [2][compensation or damages], such members as may be necessary to constitute the panchayat shall be appointed, at the instance of either party, by the District Judge.

(*3*) In the event of the panchayat not giving a decision within one month from the date of the selection of the sir-panch or of the appointment by the District Court of such members as may be necessary to constitute the panchayat, the matter shall, on application by either party, be determined by the District Court which shall, in cases in which the compensation is claimed in respect of land, follow as far as may be the procedure provided by the [4] Land Acquisition Act, 1894, for proceedings in matters referred for the determination of the Court : I of 1894.

Provided that,—

(*a*) no application to the Collector for a reference shall be necessary, and

(*b*) the Court shall have full power to give and apportion the costs of all proceedings in any manner it thinks fit.

Costs or expenses how determined and recovered.

[5][**160A.** If a dispute arises with respect to any costs or expenses which are by this Act directed to be paid, the amount, and if necessary the apportionment of the same, shall, save where it is otherwise expressly provided in this Act, be ascertained and determined by the Municipality and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.]

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[1] These words were substituted for the words " If a dispute arises " by Bom. 35 of 1954, s. 15.

[2] These words were substituted for the words " compensation, damages, costs or expenses " by s. 26 of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

[3] These words were substituted for the words " to receive compensation " by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. 3 of 1902).

[4] Central Acts.

[5] Section 160A was inserted by s. 27 of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

[1][**160AA.** (*1*) If on a request made by the president of a Municipality in that behalf or on its or his own motion, it appears to the State Government or an officer authorised by the State Government, (hereinafter referred to as the requisitioning authority), that in connection with any election under this Act,— Requisitioning of premises, vehicles, etc., for municipal elections.

(*a*) any premises are needed or are likely to be needed for the purpose of being used as a polling station or for the storage of ballot boxes after the poll has been taken, or

(*b*) any vehicle, vessel or animal is needed or is likely to be needed for the purpose of transport of ballot boxes to, or from, any polling station, or transport of members of the police force for maintaining order during the conduct of such election, or transport of any officer or other person for the performance of any duties in connection with such election,

the requisitioning authority may be order in writing requisition such premises or such vehicle, vessel or animal, as the case may be, and may make such further orders as may appear to it to be necessary or expedient in connection with the requisitioning :

Provided that no vehicle, vessel or animal which is being lawfully used by a candidate or his agent for any purpose connected with the election of such candidate shall be requisitioned under this sub-section until the completion of the poll at such election.

(*2*) The requisition shall be effected by an order in writing addressed to the person deemed by the requisitioning authority to be the owner or person in possession of the property and such order shall be served in the manner prescribed by rules made by the State Government on the person to whom it is addressed.

(*3*) Whenever any property is requisitioned under sub-section (1), the period of such requisition shall not extend beyond the period for which such property is required for any of the purposes mentioned in that sub-section.

Explanation.—For the purpose of this section, "premises" means any land, building or part of a building and includes a hut, shed or other structure or any part thereof.

160B. (*1*) Whenever in pursuance of section 160AA, the requisitioning authority requisitions any premises, the Municipality shall pay to the persons interested compensation the amount of which shall be determined by taking into consideration the following, namely :— Payment of compensation.

(*i*) the rent payable in respect of the premises or if no rent is so payable, the rent payable for similar premises in the locality ;

(*ii*) if in consequence of the requisition of the premises the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change :

Provided that where any person interested being aggrieved by the amount of compensation so determined makes an application to the requisitioning authority within the time prescribed by rules made by the State Government,

[1] Sections 160AA to 160F were inserted by Bom. 35 of 1954, s. 16.

for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the requisitioning authority may determine :

Provided further that where there is any dispute as to the title to receive the compensation or as to the apportionment of the amount of compensation, it shall be referred by the requisitioning authority to an arbitrator appointed in this behalf by the State Government or the requisitioning authority for determination, and shall be determined in accordance with the decision of such arbitrator.

Explanation.—For the purpose of this sub-section, the expression "person interested" means the person who was in actual possession of the premises requisitioned under section 160AA immediately before the requisition, or where no person was in actual possession, the owner of such premises.

(*2*) Whenever in pursuance of section 160AA the requisitioning authority requisitions any vehicle, vessel or animal, the municipality shall pay to the owner thereof compensation the amount of which shall be determined by the requisitioning authority, on the basis of the fares or rates prevailing in the locality for the hire of such, vehicle, vessel or animal :

Provided that where the owner of such vehicle, vessel or animal being aggrieved by the amount of compensation so determined makes an application to the requisitioning authority within the time prescribed by rules made by the State Government for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the requisitioning authority may determine :

Provided further that where immediately before the requisitioning, the vehicle or vessel was by virtue of a hire-purchase agreement in the possession of the person other than the owner, the amount determined under this sub-section as the total compensation payable in respect of the requisition shall be apportioned between that person and the owner in such manner as they may agree upon and in default of agreement, in such manner as an arbitrator appointed by the requisitioning authority in this behalf may decide.

Power to obtain information.

160C. The requisitioning authority may with a view to requisitioning any property under section 160AA or determining the compensation payable under section 160B by order, require any person to furnish to such authority as may be specified in the order such information in his possession relating to such property as may be so specified.

Eviction from requisitioned premises.

160D. (*1*) Any person remaining in possession of any requisitioned premises in contravention of any order made under section 160AA may be summarily evicted from the premises by any officer empowered by the requisitioning authority in this behalf.

(*2*) Any officer so empowered may, after giving to any woman not appearing in public reasonable warning and facility to withdraw, remove or open any lock or bolt or break open any door of any building or do any other act necessary for effecting such eviction.

Release of premises from requisition.

160E. (*1*) When any premises requisitioned under section 160AA are to be released from requisition, the possession thereof shall be delivered to the person from whom possession was taken at the time when the premises were requisitioned, or if there were no such persons, to the person deemed by the requisitioning authority to be the owner of such premises and such delivery of possession shall be a full discharge of the requisitioning authority from all liabilities in respect of such delivery, but shall not prejudice any rights in respect of the premises which any other person may be entitled by due process of law to enforce against the person to whom possession of the premises is so delivered.

(*2*) Where the person to whom possession of any premises requisitioned under section 160AA is to be given under sub-section (*1*) cannot be found or is not readily ascertainable or has no agent or any other person empowered to accept delivery on his behalf the requisitioning authority shall cause a notice declaring that such premises are released from requisition to be affixed on some conspicuous part of such premises and publish the notice in the *Official Gazette*.

(*3*) When a notice referred to in sub-section (*2*) is published in the *Official Gazette*, the premises specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof and the requisitioning authority or the municipality shall not be liable for any compensation or other claim in respect of such premises for any period after the said date.

Penalty for contravention of any order regarding requisitioning.

160F. If any person contravenes any order made under section 160AA or section 160C he shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine or with both.

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CHAPTER X.

PROSECUTIONS, SUITS AND POWERS OF POLICE.

Municipality may prosecute.

161. (*1*) The Municipality [1][and, in the case of offences against any of the provisions of this Act mentioned in section 183 (*d*), the chief officer] may direct any prosecution for any public nuisance whatever, and may order proceedings to be taken for the recovery of any penalties, and for the punishment of any persons offending against the provisions of this Act, or of any by-law thereunder, and may order the expenses of such prosecutions or other proceedings to be paid out of the municipal fund :

Provided that no prosecution for an offence under this Act [2][or any by-law framed thereunder] shall be instituted except within six months [3][next after the date of the commission of the offence or if such date is not known or the offence is a continuing one within six months next after the commission or the discovery of such offence.]

Jurisdiction of Magistrate.

(*2*) Any prosecution under this Act or under any by-laws thereunder may, save as therein otherwise provided, be instituted before any Magistrate and every fine or penalty imposed under or by virtue of this Act or any by-law thereunder, and also all claims to compensation or other expenses for the recovery of which no special provision is otherwise made in this Act, may be recovered on application to such Magistrate, by the distress and sale of any moveable property within the limits of his jurisdiction belonging to the person from whom the money is claimable.

Distress lawful though defective in form.

162. No distress levied by virtue of this Act shall be deemed unlawful nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in any summons, conviction or warrant of distress or other proceeding relating thereto, nor shall such party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him ; but all persons aggrieved by such irregularity may recover full satisfaction for the special damage in any Court of competent jurisdiction.

Damage to municipal property how made good.

163. If through any act, neglect or default, on account whereof any person shall have incurred any penalty imposed by or under this Act, any damage to the property of the Municipality shall have been committed by such person, he shall be liable to make good such damage as well as to pay such penalty, and the amount of damage shall, in case of dispute, be determined by the Magistrate by whom the person incurring such penalty is convicted, and on non-payment of such damage on demand the same shall be levied by distress, and such Magistrate shall issue his warrant accordingly.

Alternative procedure by suit.

164. In lieu of proceeding by distress and sale, or in case of failure to realise by so proceeding the whole or any part of any amount recoverable under the provisions of Chapter VIII, or of any compensation, expenses, charges or damages awarded under this Act, it shall be lawful for the Municipality to sue in any Court of competent jurisdiction the person liable to pay the same, as also any other person who may have in any other way caused, or may appear likely to cause, any injury to any property, rights or privileges of the Municipality

[1] These words, figures and letter were inserted by Bom. 8 of 1914, s. 28.
[2] These words were inserted by Bom. 35 of 1955, s. 12 (*a*).
[3] These words were substituted for the words " next after the commission of such offence " *ibid.*, s. 12(*b*).

Power to compromise.

165. (*1*) The Municipality may compound or compromise in respect of any suit instituted by or against them, or, in respect of any claim or demand arising out of any contract entered into by them under this Act, for such sum of money or other compensation as they shall deem sufficient :

Provided that, if any sanction in the making of any contract is required by this Act, the like previous sanction shall be obtained for compounding or compromising any claim or demand arising out of such contract :

[1][Provided further that if any such suit is in respect of land leased or sold under sub-section (*1*) of section 90 or in respect of any immovable property sold or leased for a term exceeding seven years or otherwise transferred, it shall not be lawful for the municipality to compound or compromise in respect of the suit except with the previous sanction of the Commissioner.]

(*2*) The Municipality may make compensation out of the municipal fund to any person sustaining any damage by reason of the exercise of any of the powers vested in them, their officers and servants under this Act.

Assistance for the recovery of rent on land.

166. For the purpose of the recovery of any amount due on account of rent from any person to a Municipality in respect of any land vested in [2][or otherwise held by] such Municipality, the Municipality shall be deemed to be superior holders, and every such person an inferior holder, of such land, within the meaning of sections 86 and 87 of the Bombay Land Revenue Code, 1879, and the Municipality as superior holder shall be entitled, for the recovery of every such amount, to all the assistance to which under the said sections superior holders are entitled for the recovery of rent or land-revenue payable to them by inferior holders. Bom. V of 1879.

Bar of suits against municipality, its officers, servants, etc., for acts done in good faith.

[3][**167.** No suit shall lie in respect of anything in good faith done or intended to be done under this Act against any municipality or against any committee constituted under this Act or against any officer or servant of a municipality or against any person acting under and in accordance with the directions of any such municipality, committee, officer or servant or of a magistrate.]

Limitation of suits against municipality, its officers and servants for acts done in pursuance or execution of this Act.

[3][**167A.** (*1*) No suit shall lie against a municipality or against any officer or servant of a municipality in respect of any act done in pursuance or execution or intended execution of this Act, or in respect of any alleged neglect or default in the execution of this Act—

(*a*) unless it is commenced within six months next after the accrual of the cause of action ; and

(*b*) until the expiration of one month after notice in writing has been, in the case of a municipality, delivered or left at the municipal office and, in the case of an officer or servant of a municipality, delivered to him or left at his office

[1] This proviso was added by Bom. 52 of 1949, s. 32.

[2] These words were inserted by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. 3 of 1902).

[3] Sections 167 and 167A were substituted for the original section 167 by Bom. 52 of 1949, s 3.

or place of abode; and all such notices shall state with reasonable particularity the cause of action and the name and place of abode of the intending plaintiff and of his advocate, pleader or agent, if any, for the purpose of the suit.

(*2*) At the trial of any such suit—

(*a*) the plaintiff shall not be permitted to adduce evidence relating to any cause of action save such as is set forth in the notice delivered or left by him as aforesaid;

(*b*) if the suit be for damages and if tender of sufficient amends shall have been made before the action was brought, the plaintiff shall not recover more than the amount so tendered and shall pay all costs incurred by the defendant after such tender.

(*3*) If the defendant in any such suit is an officer or servant of a municipality, payment of any sum or part thereof payable by him in or in consequence of the suit may, with the sanction of the managing committee, be made from the municipal fund.]

Powers of Police officers.

168. (*1*) Any Police officer may arrest any person committing in his view any offence against any of the provisions of this Act or of any by-law thereunder, if the name and address of such person be unknown to him, and if he decline to give his name and address, or if the Police officer have reason to doubt the accuracy of such name and address if given, and such person may be detained at the station-house until his name and address shall be correctly ascertained:

Provided that no person arrested shall be detained without the order of a Magistrate longer than shall be necessary for bringing him before a Magistrate, or than twenty-four hours at the utmost.

(*2*) It shall also be the duty of all Police officers to give immediate information to the Municipality of the commission of any offence against the provisions of this Act or of any by-law thereunder, and to assist all municipal officers and servants in the exercise of their lawful authority.

CHAPTER XI

Municipal Accounts.

Presentation of accounts.

169. (*1*) Every Municipality shall have prepared and laid before them, at their periodical general meetings, complete accounts of the receipts and expenditure of the Municipality since the 1st day of April last preceding, and at a general meeting which shall, if possible, be held on such day between the 10th January and the 1st of March as may be fixed in this behalf by the rules of the Municipality, a complete

account of the actual and expected receipt and expenditure for the financial year ending on the 31st March next following, together with a budget estimate of the income and expenditure of the Municipality for the financial year to commence on the 1st April next following. Budget Estimates.

(*2*) The Municipality shall thereupon decide upon the appropriations, and the ways and means contained in the budget of the year to commence on the 1st April next following. The budget so sanctioned may be varied or altered from time to time, as circumstances may render desirable, at a special general meeting called for the purpose.

(*3*) The Municipality shall at the general meeting in April, or after audit of the past year's accounts, if such audit has not before that general meeting taken place, pass the accounts of the past year.

170. [1][(*1*) Independently of the audit provided for under the provisions of the Bombay Local Fund Audit Act, 1930, the municipal accounts may be audited at such intervals and by such agency as may be prescribed in the rules of the municipality.] Audit of accounts. Bom. XXV of 1930.

(*2*) The auditor, or auditors, shall, for the purposes of their office, have access to all the accounts and other records of the Municipality.

(*3*) The Municipality shall pay from the Municipal fund such charges for the audit as may be agreed upon.[2] [3]* * * * * *

171. The Municipality shall as soon as the annual accounts have been finally passed by them, transmit to the [4][[5][State] Government] or any officer duly authorised by [6][it], in this behalf, a copy thereof, or an account in such form as the [4][[5][State] Government] may prescribe and shall furnish such details and vouchers relating to the same as the [4][[5][State] Government] or such officer may from time to time direct. Transmission of accounts to [5][State] Government.

172. The quarterly and annual accounts of receipts and expenditure, and the budget when sanctioned, shall be open to public inspection, and shall be published in the vernacular language of the district in such manner as the Municipality may prescribe in this behalf. Publication of accounts.

CHAPTER XII.

CONTROL.

173. (*1*) [7][The Director of Local Authorities or the Collector] shall have power— [8][Powers] of inspection and supervision.

(*a*) to enter on and inspect, or cause to be entered on and inspected, any immoveable property occupied by any Municipality, or any work in progress under them or under their direction;

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[1] Sub-section (*1*) was substituted for the original sub-section by Bom. 25 of 1930, s. 16 (*1*) (*a*).
[2] The full stop was substituted for the comma, *ibid.*, s. 16 (*1*) (*b*) (*ii*).
[3] The words "or if the auditor is a Government auditor, then such charge as may be prescribed by the Governor in Council" were repealed, *ibid.*
[4] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.
[5] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[6] The word "it" was substituted for the word "him" by the Adaptation of Indian Laws Order in Council.
[7] These words were substituted for the words "The Collector" by Bom. 26 of 1953, s. 14.
[8] This word was substituted for the words "Collector's powers", *ibid.*

(*b*) to call for any extract from the proceedings of any Municipality or of any committee or for any book, or document in the possession of or under the control of a Municipality, and any return, statement, account, or report which he may think fit to require such Municipality to furnish ;

(*c*) to require a Municipality to take into their consideration any objection which appears to him to exist to the doing of anything which is about to be done or is being done by such Municipality, or any information which he is able to furnish and which appears to him to necessitate the doing of a certain thing by the Municipality, and to make a written reply to him within a reasonable time stating their reasons for not desisting from doing, or for not doing, such thing.

(*2*) All or any of the powers given to the Collector by this section may be delegated by him to the Assistant or Deputy Collector in charge of a taluka in so far as concerns any Municipality other than a City Municipality in such taluka.

Powers of Director of Local Authorities to suspend execution of orders, etc., of Municipalities.

[1][**174.** (*1*) If in the opinion of the Director of Local Authorities, the execution of any order or resolution of a Municipality, or the doing of anything which is about to be done or is being done by or on behalf of a Municipality, is causing or is likely to cause injury or annoyance to the public or to lead to a breach of the peace or is unlawful, he may by order in writing under his signature suspend the execution or prohibit the doing thereof.

(*2*) When the Director of Local Authorities makes any order under this section he shall forthwith forward to the Municipality affected thereby a copy of the order, with a statement of the reasons for making it and also submit a report to the State Government along with copies of such order and statement.

(*3*) The State Government may rescind the order or may revise or modify or confirm the order or direct that the order shall continue to be in force, with or without modification, permanently or for such period as it may specify.]

Extraordinary powers of [2][Director of Local Authorities] in case of emergency.

175. (*1*) In cases of emergency the [2][Director of Local Authorities] may provide for the execution of any work, or the doing of any act, which a Municipality are empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the health or safety of the public, and may direct that the expense of executing the work or doing the act, with a reasonable remuneration to the person appointed to execute or do it, shall be forthwith paid by the Municipality.

(*2*) If the expense and remuneration are not so paid, the [2][Director of Local Authorities] may make an order directing any person, who for the time being has custody of any moneys on behalf of the Municipality, to pay such expense and remuneration from such moneys as he may have in his hands or may from time to time receive and such person shall be bound to obey such order.

(*3*) The provisions of sub-sections (*2*) and (*3*) of section 174 shall apply, so far as may be, to any order made under this section.

Power of Commissioner to prevent extravagance in the employment of establishment.

176. If in the opinion of the Commissioner the number of persons who are employed by a Municipality as officers or servants or whom a Municipality propose to employ, or the remuneration assigned by the Municipality to those persons, or to any particular person, is excessive, the Municipality shall, on the requirement of the Commissioner, reduce the number of the said persons or the remuneration of the said person or persons :

[1] Section 174 was substituted for the original by Bom. 26 of 1953, s. 15.
[2] These words were substituted for the word "Collector," *ibid*, s. 16,

Provided that the Municipality may appeal against any such requirement to the [1][Provincial Government], [2][decision of which] shall be conclusive.

Provincial Government may require any City Municipality to appoint a chief officer, health officer or an engineer.

177. (*1*) It shall be lawful for the [1][Provincial Government]—

(*i*) to require, if in [3][its] opinion at any time such an appointment is necessary, the appointment of a chief officer or of a health officer, or of an engineer, or any one or more of such appointments, to be made by any City Municipality ;

(*ii*) to make in [3][its] discretion an order vetoing the appointment, or continuance in any such office, of any person selected therefor or appointed thereto by any such Municipality, and the tenure of such office by any such person shall cease and determine on and from the date on which such order is communicated to the Municipality ;

(*iii*) to require that any person appointed to be a chief officer [4][or a Municipal Commissioner] shall be invested by any such Municipality with all or any of the powers which can under this Act or under any rules in force at the time be lawfully delegated to him, in addition to such powers as are conferred on him by section 183 [4][or by Chapter XIIIA, as the case may be] ;

(*iv*) to require that all or any of the powers referred to in section 144 or in section 145 (if the conditions under which that section comes into operation exist) shall be delegated by any such Municipality, whether there be a chief officer or not, to the president, vice-president or any such councillor as the [1][Provincial Government] may deem fit.

(*2*) Any requisition issued to the Municipality under clause (*i*), (*iii*) or (*iv*) of sub-section (*1*) above shall be complied with within such time as the [1][Provincial Government] may in each case prescribe in that behalf.

Inquiry into municipal matters by Provincial Government.

[5][**177A.** (*1*) The Provincial Government may order an inquiry to be held by any officer appointed by it in this behalf into any matters concerning the municipal administration of any Municipality or any matters with respect to which its sanction, approval or consent is required under this Act.

(*2*) The officer holding such inquiry shall for the purposes thereof have the powers V of 1908. which are vested in a Court under the Code of Civil Procedure, 1908, in respect of the following matters, namely :—

(*a*) discovery and inspection,

(*b*) enforcing the attendance of witnesses and requiring the deposit of their expenses,

(*c*) compelling the production of documents.

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] The words "decision of which" were substituted for the words "whose decision", *ibid.*

[3] The word "its" was substituted for the word "his", *ibid.*

[4] These words were inserted by s. 29 of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

[5] Section 177A was inserted by Bom. 52 of 1949, s. 34.

(*d*) examining witnesses on oath,

(*e*) granting adjournments,

(*f*) reception of evidence taken on affidavit, and

(*g*) issuing commissions for the examination of witnesses,

and may summon and examine *suo motu* any person whose evidence appears to him to be material; and shall be deemed to be a Civil Court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898. V of 1898.

Explanation.—For the purpose of enforcing the attendance of witnesses the local limits of such officer's jurisdiction shall be the limits of the Province of Bombay.

(*3*) The reasonable expenses incurred by any person in attending to give evidence may be allowed by the officer holding the inquiry to such person and shall be deemed to be part of the costs.

(*4*) Costs shall be in the discretion of the Provincial Government and the Provincial Government shall have full power to determine by and to whom and to what extent such costs are to be paid, and to allow interest on costs at a rate not exceeding 6 per cent. per annum; and such costs and interest shall be leviable as an arrear of land revenue.

Power of Provincial Government to provide for performance of duties in default of Municipality.

178. (*1*) When the [1][Provincial Government] is informed, on complaint made or otherwise, that a Municipality have made default in performing any duty imposed on them by or under this Act, or by or under any enactment for the time being in force, the [1][Provincial Government], if satisfied after due inquiry that the Municipality have been guilty of the alleged default, may direct the Commissioner to fix a period for the performance of that duty.

(*2*) If that duty is not performed within the period so fixed, the Commissioner may appoint some person to perform it, and may direct that the expense of performing it, with a reasonable remuneration to the person appointed to perform it shall be forthwith paid by the Municipality.

[2][(*3*) If the expense and remuneration are not so paid, the Commissioner may make an order directing the bank in which any moneys of the Municipality are deposited or the person in charge of the Local Government Treasury or of any other place of security in which the moneys of the Municipality are deposited to pay such expense and remuneration from such moneys as may be standing to the credit of the Municipality in such bank or may be in the hands of such person or as may from time to time be received from or on behalf of the Municipality by way of deposit by such bank or person; and such bank or person shall be bound to obey such order. Every payment made pursuant to such order shall be a sufficient discharge to such bank or person from all liability to the Municipality in respect of any sum or sums so paid by it or him out of the moneys oft he Municipality so deposited with such bank or person.]

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] Sub-section (*3*) was substituted for the original sub-section by Bom. 23 of 1931, s. 2 (*ii*).

Power of Provincial Government to supersede Municipality in case of incompetency, default or abuse of powers.

179. (*1*) If, in the opinion of the [1][Provincial Government], any Municipality are not competent to perform, or persistently make default in the performance of, the duties imposed on them by or under this Act, or otherwise by law, or exceed or abuse their powers, the [1][Provincial Government] may, by an order published, with the reasons for making it, in the [2][*Official Gazette*] declare the Municipality to be incompetent or in default, or to have exceeded or abused their powers, as the case may be, and [3][may dissolve such Municipality or] supersede them for a period to be specified in the order.

[4][(*2*) On the dissolution of a Municipality under sub-section (*1*) the term of office of the Councillors of such Municipality shall terminate and elections of Councillors shall be held under the provisions of this Act or rules made thereunder applicable thereto, on or before a date to be specified by [5][the Provincial Government] in this behalf in the aforesaid order.]

Consequences of supersession.

[6](*3*) When the Municipality are [7][superseded under sub-section (*1*)] the following consequences shall ensue :—

(*a*) all Councillors of the Municipality shall, as from the date of the order, vacate their offices as such Councillors ;

(*b*) all powers and duties of the Municipality shall, during the period of supersession, be exercised and performed by such person or persons as the Commissioner from time to time appoints in that behalf ;

(*c*) all property vested in the Municipality shall, during the period of supersession, vest in His Majesty.

Power after inquiry to continue period of supersession.

[6](*4*) If, after inquiry made, the [1][Provincial Government] so directs, the period of supersession with all the consequences aforesaid shall from time to time be continued by an order published as aforesaid until such date as may be fixed by the [1][Provincial Government] for the re-establishment of the Municipality.

[6](*5*) The Municipality shall be re-established by the election or appointment of new Councillors under the provisions of this Act applicable thereto,

(*a*) if no direction has been made under sub-section [8][(*4*)], then on the expiration of the period specified in the order of supersession under sub-section (*1*), and

(*b*) if a direction has been made under sub-section [8][(*4*)], then on such date as is fixed under that section for the re-establishment of the Municipality.

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[3] These words were inserted by Bom. 4 of 1924, s. 7 (*1*).

[4] Sub-section (*2*) was inserted, *ibid.*, s. 7 (*2*).

[5] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[6] Sub-sections (*2*), (*3*) and (*4*) were renumbered (*3*), (*4*) and (*5*) by Bom. 4 of 1924, s. 7 (*4*) (*a*).

[7] These words, figure and brackets were substituted for the words "so superseded", *ibid.*, s. 7 (*4*) (*a*).

[8] The figure "*4*" was substituted for the figure "*3*", *ibid.*, s. 7 (*4*) (*b*).

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180. In all matters connected with this Act, the [1][[2][State] Government], each Commissioner and each Collector shall, respectively, have and exercise the same authority and control over the Commissioners, the Collectors and their subordinates, as [3][it or he] has and exercises over them in the general and revenue administration. Powers of [2][State] Government and of the Commissioners over Collectors, etc.

CHAPTER XIII.

SPECIAL PROVISIONS FOR CITY MUNICIPALITIES.

181. (*1*) The [1][[2][State] Government] may at any time, in respect of any municipal district which contains a population of not less than fifteen thousand inhabitants, declare, by notification, the Municipality thereof, which shall be specified in the notification, to be a City Municipality. Constitution of City Municipalities.

(*2*) The [1][[2][State] Government] may, in respect of any Municipality so declared, [4]* * * * * * direct by notification, specifying such Municipality, that from such date as shall be fixed by the notification containing such direction, the Municipality specified shall cease to be a City Municipality and such Municipality shall, on the date fixed, cease to be a City Municipality accordingly.

182. (*1*) Any City Municipality may, if they think fit, appoint a chief officer and a health officer and an engineer, or any one or more of such officers or such Municipality may in their discretion appoint one person, whether temporarily or permanently, to discharge the duties of any two or of all of such offices. City Municipality may appoint a chief officer, health officer, and engineer.

(*2*) No such officer shall, save with the previous sanction of the [1][[2][State] Government], be removable from office unless by the votes of at least three-fourths of the whole number of Councillors.

(*3*) When a chief officer shall have been appointed, all other officers and servants employed by the Municipality shall be subordinate to him.

183. The chief officer in a City Municipality shall exercise the powers hereinafter specified, and such other powers as may be delegated to him by the Municipality under the provisions of this Act : Powers of chief officer.

(*a*) he shall have power, subject to the provisions of this Act and of the by-laws for the time being in force thereunder, to grant, give and issue under his signature all licences and permissions which may be granted or given by a Municipality under this Act, other than licences for markets or slaughter-houses ; and

(*b*) he may, subject to the provisions aforesaid, at his discretion suspend, withhold or withdraw any licence, in any case in which he is empowered as aforesaid to grant or give a licence, and in which the Municipality may under the provisions aforesaid suspend, withhold or withdraw such licence ;

(*c*) he shall receive and recover and credit to the municipal fund all fees payable for licences and permissions granted or given by him under the powers aforesaid ;

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[1] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[3] The words " it or he " were substituted for the word " he ", by Adaptation of Indian Laws Order in Council.

[4] The words and letter " or in respect of any Municipality specified in Schedule E " were deleted by Bom. 21 of 1954, First Sch.

(*d*) he may make such requisitions by written notice, give such written consent or permission, issue such orders and prohibitions, and exercise all such powers as may be made, given, issued or exercised by a Municipality under any provisions contained in—

(*i*) Sub-section (*2*) of section 91,
(*ii*) [1][Sub-section (*2*)], sub-section (*3*) or clause (*a*) of sub-section (*5*) of section 96,
(*iii*) section 102,
(*iv*) sub-section (*1*) of section 110,
(*v*) section 111,
(*vi*) section 114,
(*vii*) section 115,
(*viii*) section 118,
(*ix*) section 119,
(*x*) section 121,
(*xi*) section 122,
(*xii*) section 123,
(*xiii*) section 124,
(*xiv*) section 125,
(*xv*) section 126,
(*xvi*) section 127,
(*xvii*) section 128,
(*xviii*) section 130,
(*xix*) sub-section (*1*) of section 131,
(*xx*) section 132,
(*xxi*) section 134,
(*xxii*) section 142,
(*xxiii*) section 143,
(*xxiv*) clause (*b*) of sub-section (*2*) of section 144.

Chief officer's power of appointment and punishment.

184. The chief officer shall have, independently of such powers as may be delegated to him by the Municipality in this behalf, power—

(*a*) to appoint—

(*i*) without the previous sanction of the Municipality, to any post the monthly salary for which as fixed by rules made under clause (*b*) of section 46 does not exceed Rs. 15, and

(*ii*) with such previous sanction in each case, to any post under the Municipality other than that of the health officer, engineer or chief accountant, and

(*b*) to fine, reduce, suspend or dismiss any municipal servant whose salary does not exceed Rs. 15, and, subject to the provisions of the rules for the time being in force, any other municipal officer or servant not being the health officer, engineer, or chief accountant, provided that in respect of any punishment other than a fine not exceeding one week's salary his order shall be subject to an appeal to the Municipality.

Delegation of chief officer's powers.

185. The chief officer may, with the sanction of the Municipality, delegate any of the powers conferred on him to any officer subordinate to him.

[1]This word, figure and brackets were substituted for the word, figure and brackets " sub-section (*1*) " by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. 3 of 1902).

186. The chief officer may, with the permission of the president, or in virtue of a resolution passed in this behalf at any meeting of the Municipality or of any committee, make an explanation in regard to any subject under discussion at such meeting, but shall not vote upon or make any proposition at any such meeting. Chief officer may take part in discussions.

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[1][CHAPTER XIIIA.

THE MUNICIPAL COMMISSIONER, HIS POWERS AND DUTIES.

186A. (*1*) Notwithstanding anything contained in Chapter XIII, the [2][Provincial Government] may make an appointment of a Municipal Commissioner— Appointment of Municipal Commissioner.

(*a*) for any municipal district which contains a population of not less than one hundred thousand inhabitants ; and

(*b*) for any other municipal district on the application of the Municipality in this behalf, provided that such application has been previously supported by not less than two-thirds of the whole number of Councillors.

(*2*) The population of a municipal district shall be deemed to be the population as ascertained in the latest census taken in such municipal district, unless the [2][Provincial Government] thinks fit to direct that a special census may be taken in such municipal district for the purpose of ascertaining the population, whereupon the population shall be deemed to be the population as ascertained in such special census. Population how ascertained.

(*3*) When the appointment of a Municipal Commissioner has been once made for a municipal district which contained at that time a population of not less than one hundred thousand inhabitants as ascertained in sub-section (*2*), such appointment shall not cease by reason only of the fact that the population of such municipal district has fallen short of one hundred thousand inhabitants. Subsequent reduction of population.

(*4*) On the appointment of a Municipal Commissioner the appointment of a chief officer, whether made under section 177 or section 182, shall forthwith terminate : provided that the appointment of a Municipal Commissioner shall not be made until such notice has been given to the chief officer, if any, as the terms of his appointment entitle him to receive and until the expiry of the period specified in such notice. Appointment of chief officer to cease on appointment of a Municipal Commissioner.

(*5*) The [2][Provincial Government] may at any time discontinue the appointment of a Municipal Commissioner for any municipal district for which such appointment has been made. Discontinuance of appointment.

186B. (*1*) A Municipal Commissioner shall hold office for a period of three years, in the first instance, and thereafter for such further period as the [2][Provincial Government] may in each case determine. Term of office.

(*2*) A Municipal Commissioner may be removed from office at any time by the [2][Provincial Government] if it shall appear to the [2][Provincial Government] that he is incapable of performing the duties of his office or has been guilty of any misconduct or neglect which renders his removal expedient. Removal from office.

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[1] Chapter XIIIA was inserted by s. 30 of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

(*3*) A Municipal Commissioner shall be forthwith removed from office by the [1][Provincial Government] on the application of the Municipality in this behalf, provided that such application has been previously supported by not less than three-fourths of the whole number of councillors.

Salary of Municipal Commissioner.

186C. (*1*) A Municipal Commissioner shall receive from the municipal fund such monthly salary as the Municipality shall, subject to the approval of the [1][Provincial Government], from time to time determine.

Prohibition of engagement in other business.

(*2*) A Municipal Commissioner shall devote his whole time and attention to the duties of his office as prescribed in this Act or in any other enactment for the time being in force, and shall not engage in any other profession, trade or business whatsoever:

Provided that he may at any time, with the sanction of the Municipality, serve on any committee constituted for the purpose of any local inquiry or for the furtherance of any object of local importance or interest.

Leave of absence.

186D. (*1*) The [1][Provincial Government] may, from time to time, with the assent of the Municipality, grant leave of absence for such period as [2][it] thinks fit to a Municipal Commissioner.

Leave allowance.

(*2*) The allowance to be paid to a Municipal Commissioner, while absent on leave, shall be of such amount, not exceeding his salary, as shall be fixed by the [1][Provincial Government];

Provided that, if the Municipal Commissioner is a salaried [3][servant of the Crown], the amount of such allowance shall be regulated by the rules for the time being in force relating to the leave allowances of salaried [4][servants of the Crown] of his class.

appointment of substitute.

(*3*) During any absence on leave, or other temporary vacancy in the office, of a Municipal Commissioner the [1][Provincial Government] may appoint a fit person to act as Municipal Commissioner. Every person so appointed shall exercise the powers and perform the duties conferred and imposed by or under this Act or by any other enactment for the time being in force on the person for whom he is appointed to act, and shall be subject to the same liabilities, restrictions and conditions to which the said person is liable.

Contributions from Municipality towards pension and leave allowances of Municipal Commissioner.

186E. (*1*) When a salaried [3][servant of the Crown] is appointed to be a Municipal Commissioner, the Municipality shall, unless specifically exempted wholly or in part from liability by the [5][Government in whose service he was employed immediately before the appointment], contribute to his pension and leave allowances to the extent required by proviso (*b*) to section 16.

(*2*) When a person other than a salaried [3][servant of the Crown] is appointed to be a Municipal Commissioner, the Municipality shall pay from the municipal fund the whole of his leave allowances fixed, as hereinbefore provided, by the [1][Provincial Government], and may, with the sanction of the [1][Provincial Government], grant him a pension or gratuity on retirement, or grant a compassionate allowance to his family on his death.

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] The word "it" was substituted for the word "he", *ibid.*

[3] The words "servant of the Crown" were substituted for the words "servant of Government", by *ibid.*

[4] The words "servants of the Crown" were substituted for the words "servants of Government" *ibid.*

[5] The words "Government in whose service he was employed immediately before the appointment", were substituted for the words "Governor General in Council", *ibid.*

186F. (*1*) The Municipality may require the Municipal Commissioner to furnish them with— Power of Municipality to require returns, reports or production of documents.

(*a*) any return, statement, estimate, statistics or other information regarding any matter appertaining to the administration of this Act or to the municipal government of the municipal district;

(*b*) a report on any such matter;

(*c*) a copy of any document in his charge.

(*2*) The Municipal Commissioner shall comply with every such requisition without unreasonable delay.

186G. A Municipal Commissioner shall exercise the powers hereinafter specified, and such other executive powers as may be delegated to him by the Municipality under the provisions of this Act:— Powers of Municipal Commissioner and limitations thereon.

(*1*) he shall exercise all the powers specifically conferred on the chief officer in a City Municipality by the provisions of this Act; and

(*2*) he may make such requisition by written notice, give such written consent or permission, issue such orders and prohibitions, exercise all such powers and perform all such duties as may be made, given, issued, exercised and performed by a Municipality under any of the provisions contained in the following sections or sub-sections, namely:—

63,
64,
65,
66,
67,
68
69,
71,
76,
78,
79, sub-sections (*3*), (*4*) and (*5*),
80,
82,
83,
84,
90,
91,
91A,
92,
93,
94,
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96,
97,
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99,
100,
101,
103,
105,

106,
107,
108,
109,
100, sub-section (*2*),
112, sub-section (*1*),
113,
116,
120,
135,
136,
139, sub-section (*4*),
144,
145,
146,
147,
148,
151,
152,
154,
155,
156,
157,
159,
160A, and
161 :

Provided as follows :—

(*a*) the powers conferred on the Municipality by or under the provisions contained in section 71, section 90, section 91, section 91A, sub-section (*1*) of section 106, sub-section (*1*) of section 116, and, in the case of a well, section 135 shall not be exercised by the Municipal Commissioner except subject to the general or special orders of the Municipality or, in the absence of such orders, with the previous approval of the Municipality ;

(*b*) the powers conferred on the Municipality by or under any of the provisions of this Act—

(*i*) to make rules or by-laws, and

(*ii*) to authorize the president, or the vice-president, or a committee or a councillor to do anything

shall not be exercised by the Municipal Commissioner ;

(*c*) property, whether moveable or immovable, vested in or belonging to or otherwise held by the Municipality shall not be deemed to vest in or to belong to or otherwise to be held by the Municipal Commissioner ;

(*d*) the power conferred by section 161 to direct a prosecution or to order proceedings to be taken for the punishment of any person offending against the provisions of the following sections or sub-section shall not be exercised by the Municipal Commissioner except with the previous approval of the Municipality :—

section 44,
section 45,
sub-section (*4*) of section 91,
sub-section (*4*) of section 91A,
section 138, and
sub-section (*4*) of section 149.

186H. When a Municipality empowered by any of the provisions of this Act or by any by-laws made hereunder to authorize an officer to exercise any power whatever or to do anything, have so authorized any officer, they shall be deemed so to have authorized the Municipal Commissioner, notwithstanding that they have not expressly so authorized him. Municipal Commissioner deemed to be authorized in certain matters although not expressly so authorized.

186I. Whoever disobeys or fails to comply with a lawful direction given by the Municipal Commissioner in any matter shall be punishable in the same manner as a person who disobeys or fails to comply with a lawful direction given by the Municipality in the same matter. Punishment for person disobeying lawful direction given by Municipal Commissioner.

186J. (*1*) A Municipal Commissioner shall have, independently such powers as may be delegated to him by the Municipality in this behalf, power without the sanction of the Municipality— Powers of Municipal Commissioner to appoint, grant leave, punish and dismiss.

(*a*) to appoint, subject to the rules for the time being in force under sub-clause (*ii*) of clause (*b*) of section 46, a fit person to any post, under the Municipality, the monthly salary for which does not exceed rupees one hundred, other than to the post of the health officer, engineer, chief accountant, secretary or auditor ;

(*b*) to grant, subject to the rules for the time being in force under clause (*f*) of section 46, leave of absence to the holder of any post to which the Municipal Commissioner has power to appoint, and to appoint a fit person to act for such holder during such absence ;

(*c*) to fine, reduce, suspend or dismiss the holder of any post to which the Municipal Commissioner has power to appoint :

Provided that no holder of a post the monthly salary for which exceeds rupees fifty shall be dismissed by the Municipal Commissioner without the approval of the Municipality.

(*2*) When a Municipal Commissioner has been appointed under the provisions of this Act, all other officers and servants employed by the Municipality shall be subordinate to him.

186K. Notwithstanding anything contained in section 24, in section 184 and in section 186J, the powers conferred on the Municipality, or on a committee appointed under section 28, by or under any of the provisions of this Act to appoint, grant leave of absence to, punish or dismiss any master, teacher or other person employed in a primary or other school vested in or maintained by the Municipality or employed in any educational institution aided by the Municipality shall not be exercised either by the chief officer or by the Municipal Commissioner. Municipal Commissioner not to exercise powers of Municipality over masters and teachers.

186L. No appeal shall lie to the Municipality in respect of any order passed or anything done by a Municipal Commissioner in the exercise of the powers conferred upon him by or under the provisions of this Act except in the case of an order passed or anything done by him under any of the following sub-sections, namely :— Orders not subject to appeal except in certain cases.

(*i*) sub-sections (*1*) and (*2*) of section 92,

(*ii*) sub-section (*1*) of section 98,

(*iii*) sub-section (*2*) of section 103,
(*iv*) sub-section (*2*) of section 131,
(*v*) sub-section (*1*) of section 151, and
(*vi*) clause (*b*) of sub-section (*1*) of section 156.

Delegation of powers of Municipal Commissioner.

186M. (*1*) With the sanction of the Municipality, the Municipal Commissioner may, by general or special order in writing, delegate to any municipal officer or servant any of the Municipal Commissioner's powers, duties, or functions under this Act or under any rule or by-law made here under except such as are conferred or imposed upon or vested in him under the following sections, namely :—

151, 161 and 186J.

(*2*) The exercise or discharge by any municipal officer or servant of any powers, duties or functions delegated to him under sub-section (*1*) shall be subject to such conditions and limitations, if any, as may be prescribed in the said order, and also to control and revision by the Municipal Commissioner.

Power to execute contracts on behalf of Municipality.

186N. In any Municipality for which a Municipal Commissioner has been appointed, notwithstanding anything contained in section 40, the following provisions with respect to the making of contracts under or for any purpose of this Act shall have effect, namely :—

(*a*) every such contract shall be made on behalf of the Municipality by the Municipal Commissioner ;

(*b*) no such contract for any purpose which the Municipal Commissioner of not empowered by this Act to carry out without the approval or sanction is some other municipal authority, shall be made by him until or unless such approval or sanction has first of all been duly given ;

(*c*) no contract for the purchase, sale, lease, mortgage or other transfer of immovable property shall be entered into by the Municipal Commissioner except with the approval or sanction of the Municipality ;

(*d*) no contract which will involve an expenditure exceeding five hundred rupees shall be made by the Municipal Commissioner except with the approval or sanction of the Municipality ;

(*e*) every contract made by the Municipal Commissioner involving an expenditure exceeding two hundred and fifty rupees and not exceeding five hundred rupees shall be reported by him, within fifteen days after the same has been made, to the Municipality ;

(*f*) the foregoing provisions of this section shall apply to every variation or discharge of a contract as to an original contract.

Mode of executing contracts.

186O. (*1*) Notwithstanding anything contained in sub-sections (*6*) and (*7*) of section 40, every contract entered into by a Municipal Commissioner on behalf of a Municipality shall be entered into in such manner and form as would bind such Municipal Commissioner if such contract were on his own behalf, and may in the like manner and form be varied or discharged :

Provided that—

(*a*) where any such contract, if entered into by a Municipal Commissioner, would require to be under seal, the same shall be sealed with the common seal of the Municipality, and

(*b*) every contract for the execution of any work or the supply of any materials or goods which will involve an expenditure exceeding five hundred rupees shall be in writing and shall be sealed with the common seal of the Municipality and shall specify the work to be done or the materials or goods to be supplied, as the case may be, the price to be paid for such work, materials or goods and, in the case of a contract for work, the time or times within which the same or specified portions thereof shall be completed.

(*2*) The common seal of the Municipality shall not be affixed to any contract, or other instrument, except in the presence of two members of the Managing Committee, who shall attach their signatures to the contract or instrument in token that the same was sealed in their presence. The signatures of the said members shall be distinct from the signatures of any witnesses to the execution of any such contract or instrument.

(*3*) No contract not executed in the manner provided in this section shall be binding on the Municipality.

Tenders to be invited for contracts involving expenditure exceeding Rs. 1,000.

186P. (*1*) Except as is otherwise provided in sub-section (*3*), a Municipal Commissioner shall, at least seven days before entering into any contract for the execution of any work or the supply of any materials or goods which will involve an expenditure exceeding one thousand rupees, give notice by advertisement in the local newspapers, inviting tenders for such contract.

(*2*) A Municipal Commissioner shall not be bound to accept any tender which may be made in pursuance of such notice, but may accept, subject to the provisions of clause (*e*) of section 186N, any of the tenders so made which appears to him, upon a view of all the circumstances, to be the most advantageous or may reject all the tenders submitted to him.

(*3*) The Municipality may authorize the Municipal Commissioner, for reasons which shall be recorded in their proceedings, to enter into a contract without inviting tenders as herein provided or without accepting any tender which he may receive after having invited them.

Security when to be taken for performance of contract.

186Q. A Municipal Commissioner shall require security for the due performance of every contract into which he enters under the last preceding section, and may, in his discretion, require security for the due performance of any other contract into which he enters under this Act.]

CHAPTER XIV.

NOTIFIED AREAS.

Constitution of notified areas

187. (*1*) The [1][Provincial Government] may by notification declare that with respect to some or all of the matters upon which a municipal fund may be expended under this Act, improved arrangements are required within a specified area, which, nevertheless, it is not expedient to constitute as a municipal district under section 7.

(*2*) An area in regard to which a notification has been issued under sub-section (*1*) is hereinafter called a notified area.

[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

(*3*) No area shall be made a notified area unless it—

(*i*) contains a town which is the head-quarters of a taluka, or

(*ii*) is within a distance of one mile from a railway station :

and no such area shall include two or more towns or villages which are separated by an extent of more than one mile of land unoccupied by houses.

Power of Provincial Government to impose taxation and regulate expenditure of the proceeds thereof.

188. (*1*) The [1][Provincial Government] may by notification—

[2][(*a*) apply or adapt to any notified area the provisions of any section of this Act, or part of any such section, or of any rules in force or which can be imposed in any municipal district under the provisions of this Act, subject to such restrictions and modifications, if any, as [3][it] may think fit ;]

(*b*) impose in any such area any tax, which might be imposed therein under the provisions of this Act if the said area were a municipal district ;

(*c*) appoint a person or a committee for the purposes of the assessment and recovery of any tax imposed under clause (*b*), and in order to arrange for the due expenditure of the proceeds of such taxes, and for the preparation and maintenance of proper accounts, and generally for enforcing the provisions of any section [4][or rules applied or adapted] under clause (*a*) :

Provided that in any such area as is described in clause (*i*) of sub-section (*3*) of section 187, a committee shall be appointed for such purposes consisting of not less than three or more than five persons of whom a majority shall be residents of such area.

(*2*) The proceeds of any tax levied in any notified area under this section shall be expended only in some manner in which if the notified area were a municipal district, the municipal fund thereof might be expended.

Application of Act to notified areas

189. For the purposes of any section of this Act which may be [5][applied] to a notified area, the person or committee appointed for such area under section 188 shall be deemed to be a Municipality under this Act, and the area shall be deemed to be a municipal district.

Preliminaries to notification.

190. (*1*) Before issuing any notification under sub-section (*1*) of section 187 or under clause (*a*) or (*b*) of sub-section (*1*) of section 188, the [1][Provincial Government] shall, so far as may be, follow the procedure prescribed in section 8.

Power to cancel notification.

(*2*) The [1][Provincial Government] may at any time cancel any notification under section 187 or 188.

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] Clause (*a*) was substituted by s. 2 (*1*) (*a*) of the Bombay District Municipal (Amendment) Act, 1903 (Bom. 3 of 1903).

[3] The word "it" was substituted for the word "he" by the Adaptation of Indian Laws Order in Council.

[4] These words were substituted for the word "applied" by s. 2 (*1*) (*b*) of the Bombay District Municipal (Amendment) Act, 1903 (Bom. 3 of 1903).

[5] This word was substituted for the word "extended" by s. 2 (*2*), *ibid.*

Vesting, recovery and application of property, rights and liabilities of persons or committees appointed for areas ceasing to be notified areas.

[1]**191.** (*1*) When by reason of the cancellation, under sub-section (*2*) of section 190, of a notification issued under section 187 or 188, any area ceases to be a notified area, the property (including arrears of taxes) and rights which, prior to such cancellation, vested in the person or committee appointed for such area under clause (*c*) of sub-section (*1*) of section 188 shall, subject to all charges and liabilities affecting the same, vest in the local authority, if any, constituted for such area or within the limits of which such area is included, or if there be no such local authority, in [2][Government].

(*2*) Any arrears of taxes vesting in a local authority under sub-section (*1*) shall be recoverable under the provisions of the Act under which such local authority is constituted as if the taxes were imposed and recoverable under that Act :

Provided that steps to recover such arrears of taxes shall be taken within a period of three years from the date on which they so vest in the local authority.

(*3*) Where any property and rights vest in [2][Government] under sub-section (*1*) the proceeds thereof shall, after satisfying all charges and liabilities affecting the same, be applied for the benefit of the inhabitants of the said area in such manner as [3][the [4][State] Government] may think fit.

[5][CHAPTER XIV-A.

Provisions for conversion of a village panchayat into a municipality and vice-versa *and for amalgamation and division of municipal districts.*

Interpretation.

191A. For the purposes of this Chapter, unless there is anything repugnant in the subject or context, the expression—

(*a*) " municipality " includes a person or persons appointed to exercise the powers and to perform the functions of a municipality under section 179 ;

(*b*) " village panchayat " includes a person or persons appointed to exercise the powers and to perform the functions of a village panchayat under section 102 of the Bombay Village Panchayats Act, 1933.

Bom. VI of 1933.

Conversion of a village panchayat into a municipality.

Effect of conversion of village panchayat into municipality.

191B. When any local area ceases to be a village by virtue of a notification under section 4 of the Bombay Village Panchayats Act, 1933, and is declared to be a municipal district under section 4 (hereinafter in this section referred to as the municipal district), with effect from the day on which such local area is declared to be a municipal district (hereinafter in this section referred to as the said date), the following consequences shall ensue, namely :—

Bom. VI of 1933.

(*a*) the village panchayat of such local area (herein referred to as the village panchayat) shall cease to exist or to function ;

(*b*) there shall, notwithstanding anything contained in the Bombay Local Boards Act, 1923, be constituted for the municipal district an interim municipality consisting of persons vacating office as members of the village panchayat

Bom. VI of 1923.

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[1] Section 191 was substituted for the original section by Bom. 11 of 1936, s. 2. This section was given retrospective effect from the 14th February 1935, *vide* s. 3.

[2] This word was substituted for the words " His Majesty " by the Adaptation of Laws Order, 1950.

[3] The words " the Provincial Government " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

[4] This word was substitutured for the word " Provincial " by the Adaptation of Laws Order, 1950.

[5] This chapter was inserted by Bom. 20 of 1954, s. 3.

and the Sarpanch and Deputy Sarpanch of the village panchayat shall, respectively, be deemed to be the President and Vice President of the interim municipality;

(*c*) the unexpended balance of the village fund and the property (including arrears of rates, taxes, and fees) belonging to the village panchayat and all rights and powers which prior to such notification, vested in the village panchayat or in the State Government during the supersession of the village panchayat under section 102 of the Bombay Village Panchayats Act, 1933, as the case may be, shall, subject to all charges and liabilities affecting the same, vest in the interim municipality as the municipal fund until the new municipality is constituted in pursuance of the provisions of sub-section (*1*) of section 191C; Bom. VI of 1933.

(*d*) any appointment, notification, notice, tax, order, scheme, licence, permission, rule, by-law or form made, issued, imposed or granted under the Bombay Village Panchayats Act, 1933, immediately before the said date in respect of such local area shall continue in force and be deemed to have been made, issued, imposed or granted in respect of the municipal district until it is superseded or modified by any appointment, notification, notice, tax, order, scheme, licence, permission, rule, by-law or form made, issued imposed or granted under this Act; Bom. VI of 1933.

(*e*) all budget estimates, assessments, assessment lists, valuations or measurements made or authenticated under the Bombay Village Panchayats Act, 1933, immediately before the said date in respect of such local area shall be deemed to have been made or authenticated under this Act; Bom. VI of 1933.

(*f*) all debts and obligations incurred and all contracts made by or on behalf of the village panchayat immediately before the said date and subsisting on the said date shall be deemed to have been incurred or made by the municipality in exercise of the powers conferred on it by this Act;

(*g*) all officers and servants in the employ of the village panchayat immediately before the said date shall be officers and servants of the municipality under this Act and shall, until other provision is made in accordance with the provisions of this Act, receive salaries and allowances and be subject to the conditions of service to which they were entitled or subject on such date:

Provided that it shall be competent to the municipality, subject, however, to the previous sanction of the State Government, to discontinue the services of any officer or servant who, in its opinion, is not necessary or suitable to the requirements of the municipal service, after giving such officer or servant such notice as is required to be given by the terms of his employment and every officer or servant whose services are discontinued, shall be entitled to such leave, pension, provident fund and gratuity as he would have been entitled to take or receive on being invalided out of service as if the village panchayat, in the employ of which he was, had not ceased to exist;

(*h*) all proceedings pending at the said date before the village panchayat shall be deemed to be transferred to and continued by the municipality;

(*i*) all appeals pending before the village panchayat shall, so far as may be practicable, be disposed of as if such local area had been included in the municipal district when they were filed;

(*j*) all prosecutions instituted by or on behalf of the village panchayat and all suits or other legal proceedings instituted by or against the village panchayat or any officer of the village panchayat pending at the said date shall be continued by or against the municipality as if such local area had been included in the municipal district when such prosecutions, suits or proceedings were instituted.

Term of office of members of interim municipality and their powers.

199C. (*1*) The State Government shall, within a period not exceeding one year from the date on which the interim municipality has been constituted, take steps in accordance with section 11 for the purpose of determining the number of councillors of, and for holding election for, a new municipality.

(*2*) The councillors of the interim municipality shall hold office until the date immediately preceding the date of the first meeting of the new municipality.

(*3*) Any vacancy in the office of the interim municipality shall be filled as soon as it conveniently may be, by appointment by the State Government.

(*4*) The other provisions of this Act shall *mutatis mutandis* apply to the interim municipality and its councillors.

(*5*) If any difficulty arises,—

(*i*) in the constitution of the interim municipality or the new municipality which succeeds it, or

(*ii*) in giving effect to the provisions of this section,

the State Government may by order, as occasion may require, do, notwithstanding anything contained in this Act or the Bombay Village Panchayats Act, 1933, anything which appears to it to be necessary to remove the difficulty.

Bom. VI of 1933.

Conversion of a municipality into a village panchayat.

Councillors to vacate office on conversion of municipality into village panchayat.

191D. Notwithstanding anything contained in this Act, or in the Bombay Local Boards Act, 1923, when any local area ceases to be a municipal district by virtue of a notification under section 4 and is declared to be a village under section 4 of the Bombay Village Panchayats Act, 1933, the following consequences shall ensue namely :—

Bom. VI of 1923.

Bom. VI of 1933.

(*a*) the municipality of such local area shall cease to exist or to function ;

(*b*) all councillors of the said municipality shall vacate office ;

(*c*) an interim village panchayat shall be constituted and shall function for such local area as provided in Chapter XII-A of the Bombay Village Panchayats Act, 1933.

Bom. VI of 1933.

Amalgamation of municipalities.

Effect of amalgamation of municipal districts.

191E. When two or more municipal districts cease to be municipal districts and the local areas constituting such municipal districts are amalgamated and declared to be one municipal district (hereinafter in this section referred to as the amalgamated municipal district) by virtue of a notification under section 4 with effect from the date on which such notification is issued (hereinafter in this section referred to as the said date) the following consequences shall ensue, namely :—

(*a*) the municipalities of such local areas shall cease to exist or to function, and all the councillors of such municipalities shall vacate office ;

(*b*) all powers and duties of such municipalities shall be exercised and performed by such person or persons (herein called the administrator or administrators) as the State Government appoints in this behalf ;

(*c*) the unexpended balance of the municipal funds and all the properties (including arrears of rates, taxes and fees) belonging to such municipalties and all rights and powers which, prior to the said date, vested in such municipalities shall, subject to all charges and liabilities affecting the same, vest as the municipal fund—

(*i*) in the administrator or administrators until the municipality for the amalgamated municipal district is constituted (herein referred to as the amalgamated municipality), and holds its first meeting under sub-section (*2*) of section 17; and

(*ii*) thereafter in the amalgamated municipality;

(*d*) the unexpended balance of the municipal funds and all the properties (including arrears of rates, taxes and fees) shall, until the amalgamated municipality is constituted and holds its first meeting, be utilised for the benefit of the inhabitants of such local areas in such manner as the administrator or administrators may think fit;

(*e*) any appointment, notification, notice, tax, order, scheme, licence, permission, rule, by-law or form made, issued, imposed or granted in respect of such local areas and in force on the said date shall continue in force and be deemed to have been made, issued, imposed or granted in respect of the amalgamated municipal district until it is superseded or modified by any appointment, notification, notice, tax, order, scheme, licence, permission, rule, by-law or form made, issued, imposed or granted under this Act;

(*f*) all budget estimates, assessments, assessment lists, valuations or measurements made or authenticated by such municipalities immediately before the said date shall be deemed to have been made or authenticated in respect of the amalgamated municipal district under this Act;

(*g*) all debts and obligations incurred and all contracts made by or on behalf of such municipalities immediately before the said date and subsisting on the said date shall be deemed to have been incurred and made by the amalgamated municipality in exercise of the powers conferred on it by this Act;

(*h*) all officers and servants in the employ of such municipalities immediately before the said date shall be officers and servants of the amalgamated municipality and shall, until other provision is made in accordance with this Act, receive salaries and allowances and be subject to the conditions of service to which they were entitled or subject on such date:

Provided that it shall be competent to the administrator or administrators or the amalgamated municipality, subject however, to the previous sanction of the State Government to discontinue the services of any officer or servant who, in his, their or its opinion, is not necessary or suitable to the requirements of the municipal service in respect of the amalgamated municipal district, after giving such officer or servant such notice as is required to be given by the terms of his employment and every officer or servant whose services are discontinued, shall be entitled to such leave, pension, provident fund, and gratuity, as he would have been entitled to take or receive, on being invalided out of service, as if the municipalities in the employ of which he was, had not ceased to exist;

(*i*) all proceedings pending at the said date before such municipalities shall be deemed to be transferred to and continued by the administrator or administrators or the amalgamated municipality, as the case may be;

(*j*) all appeals pending at the said date before such municipalities shall, so far as may be practicable, be disposed of by the administrator or administrators or the amalgamated municipality, as the case may be

(*k*) all prosecutions instituted by or on behalf of such municipalities and all suits or other legal proceedings instituted by or against such municipalities or any officer of such municipalities pending at the said date shall be continued by or against the amalgamated municipality.

Division of a municipal district into two or more municipal districts.

Effect of division of municipal district.

191F. (*1*) Where any local area comprised within the limits of a municipal district ceases to be a municipal district and is declared as constituting two or more new municipal districts by virtue of a notification under section 4, with effect from the date on which such notification is issued (hereinafter in this section referred to as the said date), the following consequences shall ensue, namely :—

(*a*) the municipality constituted in respect of such local area shall cease to exist or to function and all the councillors of the municipality shall vacate office ;

(*b*) until municipalities are constituted for the new municipal districts, the State Government shall appoint a person or persons to exercise the powers and perform the functions of the municipality for each of the new municipal districts ;

(*c*) the unexpended balance of the municipal fund and all the property (including arrears of rates, taxes and fees) belonging to such municipality shall vest in the new municipalities in such proportion and in such manner as the State Government may direct ;

(*d*) the officers and servants of such municipality shall be allocated by the State Government between the new municipalities in such manner as the State Government may direct ;

(*e*) subject to clauses (*a*) to (*d*), the provisions of section 191E shall *mutatis mutandis* apply to the administrator or administrators or the new municipalities and their councillors.

(*2*) If any difficulty arises in giving effect to the provisions of section 191E and this section, the State Government may by order, as the occasion may require, do anything which appears to it to be necessary to remove the difficulty.

Absorption of a village panchayat area into a municipal district.

Effect of absorption of village panchayat area into municipal district.

191G. (*1*) Notwithstanding anything contained in this Act or in the Bombay Local Boards Act, 1923 if any local area ceases to be a village by virtue of a notification under section 4 of the Bombay Village Panchayats Act, 1933 (hereinafter in this section referred to as the said local area), and is absorbed in a municipal district the following consequences shall ensue :—

Bom. VI of 1923.

Bom. VI of 1933.

(*a*) the unexpended balance of the village fund and the property (including arrears of rates, taxes and fees) belonging to the village panchayat of the said local area (herein referred to as the village panchayat) and all rights and powers which prior to such notification, vested in the village panchayat shall, subject to all charges and liabilities affecting the same, vest in the municipality of such municipal district (herein referred to as the municipality) as the municipal fund ;

(*b*) any appointment, notification, notice, tax, order, scheme, licence, permission, rule, by-law or form made, issued, imposed or granted under the Bombay Village Panchayats Act, 1933, immediately before the said date in respect of the said local area shall continue in force and be deemed to have been made, issued, imposed or granted in respect of such municipal district until it is superseded or modified by any appointment, notification, notice, tax, order, scheme, licence, permission, rule, by-law or form made, issued, imposed or granted under this Act ;

Bom. VI of 1933.

(*c*) all budget estimates, assessments, assessment lists, valuations or measurements, made or authenticated under the Bombay Village Panchayats Act, 1933, immediately before the said date in respect of the said local area shall be deemed to have been made or authenticated under this Act ;

Bom. VI of 1933.

(*d*) all debts and obligations incurred and all contracts made by or on behalf of the village panchayat immediately before the said date and subsisting on the said date shall be deemed to have been incurred and made by the municipality in exercise of the powers conferred on it by this Act ;

(*e*) all officers and servants in the employ of the village panchayat immediately before the said date shall be officers and servants of the municipality under this Act and shall, until other provision is made in accordance with the provisions of this Act, receive salaries and allowances and be subject to the conditions of service to which they were entitled or subject on such date :

Provided that it shall be competent to the municipality subject, however, to the previous sanction of the State Government, to discontinue the services of any officer or servant, who, in its opinion, is not necessary or suitable to the requirements of the municipal service after giving such officer or servant such notice as is required to be given by the terms of his employment and every officer or servant whose services are dispensed with shall be, entitled to such leave, pension, provident fund and gratuity as he would have been entitled to take or receive on being invalided out of service as if the village panchayat, in the employ of which he was, had not ceased to exist ;

(*f*) all proceedings pending at the said date before the village panchayat shall be deemed to be transferred to and continued by the municipality ;

(*g*) all appeals pending before the village panchayat shall, so far as may be practicable, be disposed of as if the said local area had been included in the municipal district when they were filed ;

(*h*) all prosecutions instituted by or on behalf of the village panchayat and all suits or other legal proceedings instituted by or against the village panchayat or any officer of the village panchayat pending at the said date shall be continued by or against the municipality as if the said local area had been included in the municipal district when such prosecutions, suits or proceedings were instituted.

(2) If any difficulty arises in giving effect to the provisions of this section, the State Government may by order, as the occasion may require, do anything which appears to it to be necessary to remove the difficulty.]

SCHEDULE A.

(*See* clause (*b*) [1]* * of section 60.)

Notice is hereby given to the inhabitants of the municipal district of that the Municipality desire to impose the tax, rate, toll, octroi or cess (*as the case may be*) defined in the rules appended, [in lieu of the tax known as the which is published at page of the sanctioned rules.]†

†To be inserted if the tax is to be substituted for any existing tax.

Any inhabitants of the municipal district objecting to the proposed tax may, within [2][one month] from the date of the notice, send his objections to the Municipality.

RULES.

[*The rules prepared by the Municipality under clause* (*b*) [1]* * *of section 60 are to be appended here.*]

[1] The words, figure and brackets " of sub-section (*3*) " were repealed by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. 3 of 1902).

[2] These words were substituted for the words " a fortnight ", *ibid.*

SCHEDULE B.

(*See* sub-section (*3*) of section 82.)

Form of Notice of Demand.

To

AB, residing at

Take notice that the Municipality of demand from the sum of due from on account of (*here describe the property or other subject in respect of which the tax is leviable*) leviable under rule No. for the period of commencing on the day of 19 and ending on the day of 19 , and that if, within fifteen days from the service of this notice, the said sum is not paid into the municipal office at , and sufficient cause for non-payment is not shown to the satisfaction of the Municipality a warrant of distress will be issued for the recovery of the same with cost.

Dated this day of 19 .

(Signed)

By order of the Municipality of

SCHEDULE C.

(*See* sub-section (*1*) of section 83.)

Form of Warrant.

(*Here insert the name of the officer charged with the execution of the warrant.*)

Whereas *A B* of has not paid, and has not shown satisfactory cause for the non-payment of, the sum of due for the tax† mentioned in the margin for the period commencing on the day of 19 , and ending with the day of 19 , and leviable under rule No. ;

(†Here describe the tax.)

And whereas fifteen days have elapsed since the service on him of notice of demand for the same ;

This is to command you to distrain, subject to the provisions of section 83 of the Bombay District Municipal Act, 1901, the goods and chattels of the said *A B* to the amount of , being the amount due from him, as follows :—

Rs. a. p.

On account of the said tax

[1][For issue of warrant]

and forthwith to certify to me together with this warrant all particulars of the goods seized by you thereunder.

Dated this *day of* *19* .

(Signed) ,

President (or as the case may be), see section 83 (*2*).

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[2][SCHEDULE D.

[*See* sub-section (*1*) of section 79 and clause (*c*) of sub-section (*4*) of section 83.]

Form of Inventory and Notice.

To

A.B., residing at

Take notice that I have this day $\frac{\text{distrained}}{\text{attached}}$ the $\frac{\text{goods and chattels}}{\text{property}}$ specified in the inventory beneath this, for the value of due for the tax* mentioned in the margin for the period commencing with the day of 19 and ending with the day of 19 together with Rs. due as for service of notice of demand and Rs. due as for issue for warrant and that unless within five days from the day of the date of this notice you pay into the municipal office at the said amount together with the costs of recovery, the said $\frac{\text{goods and chattels}}{\text{property}}$ will be sold.

*Here describe the tax.

Dated this day of 19 .

Signature of officer $\frac{\text{executing the warrant}}{\text{collecting octroi.}}$

Inventory.

(Here state particulars of $\frac{\text{goods and chattels}}{\text{property.}}$ seized).]

SCHEDULE E.

[*Deleted by Bom. 21 of 1954, First Schedule.*]

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[1] These words were substituted for the words " For service of notice" by Bom. 12 of 1931, s. 2 (*ix*)

[2] Schedule D was substituted for the original by Bom. 52 of 1949, s. 35.

BOMBAY ACT No. VI OF 1901.[1]

[THE BOMBAY LAND REVENUE CODE AMENDMENT ACT, 1901.]

[*5th October 1901.*]

An Act to amend the Bombay Land Revenue Code, 1879.

Bom V of 1879. WHEREAS it is expedient to amend the Bombay Land Revenue Code, 1879, in manner hereinafter appearing; It is enacted as follows:—

1. (*1*) This Act may be called the Bombay Land Revenue Code Amendment Act, 1901. Short title.

(*2*) It shall come into force at once.

[2]**2-4.** * * * * * * *

5. Any assessment of land revenue heretofore fixed by the Collector, which expressly purports, or may be reasonably held to have been intended, to have been fixed under section 52 shall be valid and deemed to have been fixed under that section as amended by the foregoing section of this Act, and the amounts due according to such assessment shall, until duly revised or altered, continue to be levied. Saving validity of past assessments purporting to have been fixed under section 52.

[2]**6-17.** * * * * * * *

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[1] For Statement of Objects and Reasons, *see* "*Bombay Government Gazette*", 1901, Pt. V, p. 246; for Report of Select Committee, *see ibid.*, p. 251, and for Proceedings in Council; *see ibid.*, pp. 264, 332 and 364.

[2] Amendments made by sections 2 to 4 and 6 to 17 have been incorporated in Bom. 5 of 1879.

1197-1262

The City of Bombay Police Act, 1902 (Bom. IV of 1902), at pages 1197–1262 has been repealed by the Bombay Police Act, 1951 (Bom. XXII of 1951), section 167, Schedule I.

MO-IV Bk H 181—19

THE BOMBAY GENERAL CLAUSES ACT, 1904.

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BOMBAY ACT No. I OF 1904.[1]

[THE BOMBAY GENERAL CLAUSES ACT, 1904.]

[*30th May 1904*]

Amended by Bom. 4 of 1905.
Adapted and modified by the Adaptation of Indian Laws Order in Council.
*Amended by Bom. 17 of 1945.
Amended by Bom. 5 of 1948.
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom 28 of 1950.

An Act for further shortening the language used in Bombay Acts, and for other purposes.

WHEREAS it is expedient further to shorten the language used in Bombay Acts, and to make certain other provisions relating to those Acts; It is hereby enacted as follows :—

Preliminary.

1. This Act may be called the Bombay General Clauses Act, 1904. Short title.

2. The Bombay Acts mentioned in the Schedule are repealed to the extent specified in the fourth column thereof. Repeal.

General Definitions.

3. In this Act, and in all Bombay Acts made after the commencement of this Act, unless there is anything repugnant in the subject or context, — Definitions.

XLV of 1860. (*1*) " abet ", with its grammatical variations and cognate expressions, shall have the same meaning as in the [2]Indian Penal Code; "Abet."

(*2*) " act ", used with reference to an offence or a civil wrong, shall include a series of acts; and words which refer to acts done shall extend also to illegal omissions; "Act."

(*3*) " affidavit " shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing; "Affidavit."

(*4*) " barrister " shall mean a barrister of England or Ireland, or a member of the Faculty of Advocates in Scotland; "Barrister."

(*5*) " Bombay Act " shall mean an Act made by the Governor of Bombay in Council under the [3]Indian Councils Act, 1861, or the Indian Councils Acts, 1861 and 1892 [4][or the Indian Councils Acts, 1861 to 1909, or the Government of India Act, 1915, or made by the local Legislature, or the Governor of the Presidency of Bombay under the Government of India Act, or by the Provincial Legisla...re, or the Governor of Bombay, under the Government of India Act, 1935], [5][or made by the Legislature of the State of Bombay under the Constitution]. "Bombay Act."

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1903, Pt. VII, pp. 5, 6; for Report of Select Committee, *see ibid*, 1904, Pt. VII, p. 1, and for Proceedings in Council, *see ibid.*, 1903, Pt. VII, p. 130, *ibid.*, 1904, Pt. VII, p. 42.

[2] Central Acts.

[3] *See* now the Government of India Act, 1935.

[4] These words and figures were inserted by the Adaptation of Indian Laws Order in Council.

[5] This portion was inserted by the Adaptation of Laws Order, 1950.

*This Act has been re-enacted and the amendments made by section 9 and Sch. E of the said Act have been continued in force by Bom. 52 of 1947, s. 2.

(*6*) [1]* * *

(*7*) [1]* * *

(*8*) [1]* * *

"Chapter." (*9*) "Chapter" shall mean a Chapter of the Act in which the word occurs;

"City of Bombay." [2][(*10*) "City of Bombay" shall mean the area within the local limits of the ordinary original civil jurisdiction of the Bombay High Court of Judicature immediately before the date on which the Greater Bombay Laws and the Bombay Higher Court (Declaration of Limits) Act, 1945, came into force:] Bom. XVII of 1945.

"Collector." (*11*) "Collector" shall mean, in the City of Bombay, the Collector of Bombay, and elsewhere the chief officer in charge of the revenue-administration of a district.;

"Commencement." (*12*) "commencement", used with reference to an Act, shall mean the day on which the Act comes into force;

[3]* * * * * *

"Consular Officer." (*14*) "Consular officer" shall include consul-general, consul, vice-consul, consular agent, proconsul and any person for the time being authorized to perform the duties of consul-general, consul, vice-consul or consular agent;

"District Judge." (*15*) "District Judge" shall mean the Judge of a principal Civil Court of original jurisdiction, but shall not include a High Court in the exercise of its ordinary or extraordinary original civil jurisdiction;

"Document." (*16*) "document" shall include any matter written, expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means, which is intended to be used, or which may be used, for the purpose of recording that matter;

"Enactment." (*17*) "enactment" shall include [4]* * * any Regulation of the Bombay Code, and shall also include any provision contained in any Act or in any such Regulation as aforesaid:

"Father." (*18*) "father", in the case of any one whose personal law permits adoption, shall include an adoptive father;

"Financial year." (*19*) "financial year" shall mean the year commencing on the first day of April;

"Good faith." (*20*) a thing shall be deemed to be done in "good faith" where it is in fact done honestly, whether it is done negligently or not;

[5][(*21*) "Greater Bombay" shall mean the areas specified in Schedule A to the Greater Bombay Laws and the Bombay High Court (Declaration of Limits) Act, 1945;] Bom. XVII of 1945.

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[1] Clauses (*6*), (*7*) and (*8*) were omitted by the Adaptation of Indian Laws Order in Council.

[2] This clause was substituted for the original by Bom. 17 of 1945, s. 9 Sch. E, read with Bom. 52 of 1947, s. 2, proviso.

[3] Clause (*13*) was deleted by Bom. 28 of 1950, Sch.

[4] The words deleted by Bom. 5 of 1948, s. 2, have been omitted.

[5] This clause was inserted by Bom. 17 of 1945, s. 9, Sch. E, read with Bom. 52 of 1947, s. 2, proviso.

(*21*) [1]* * * *

(*22*) "High Court," used with reference to civil proceedings shall mean the highest Civil Court of appeal in the part of the Bombay Presidency in which the Act containing the expression operates; "High Court."

(*23*) [2]* * * *

(*24*) "immovable property" shall include land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth; "Immovable property."

XLV of 1860. (*25*) "imprisonment" shall mean imprisonment of either description as defined in the [3]Indian Penal Code; "Imprisonment."

(*26*) "local authority" shall mean a municipal corporation, municipality, local board, body of port trustees or commissioners, or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund; "Local authority."

(*27*) [1]* * * * * *

V of 1898. (*28*) "Magistrate" shall include every person exercising all or any of the powers of a Magistrate under the Code of Criminal Procedure for the time being in force; "Magistrate."

(*29*) "master" used with reference to a ship, shall mean any person (except a pilot or harbour-master) having for the time being control or charge of the ship; "Master" (of a ship).

(*30*) "month" shall mean a month reckoned according to the British calendar; "Month."

(*31*) "moveable property" shall mean property of every description, except immoveable property "Moveable property."

(*32*) "oath" shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing; "Oath."

(*33*) "offence" shall mean any act or omission made punishable by any law for the time being in force; "Offence."

(*34*) "part" shall mean a part of the Act in which the word occurs; "Part."

(*35*) "person" shall include any company or association or body of individuals, whether incorporated or not; "Person."

XLV of 1860. (*36*) "public nuisance" shall mean a public nuisance as defined in the Indian Penal Code; "Public nuisance."

[4][(*37*) "registered", used with reference to a document, shall mean registered in a Part A State or a Part C State under the law for the time being in force for the registration of documents.] "Registered."

"Regulation."

(*38*) [5]* * * *

(*39*) "rule" shall mean a rule made in exercise of a power conferred by any enactment, and shall include a regulation made as a rule under any enactment; "Rule."

(*40*) "schedule" shall mean a schedule to the Act in which the word occurs; "Schedule."

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[1] Clauses (*21*) and (*27*) were omitted by the Adaptation of Indian Laws Order in Council
[2] Clause (*23*) was omitted by the Adaptation of Laws Order, 1950.
[3] Central Acts.
[4] Clause (*37*) was substituted for the original by the Adaptation of Laws Order, 1950.
[5] Clause (*38*) was deleted by Bom. 5 of 1948, s. 2.

"Scheduled District."

(*41*) "[1]Scheduled District" shall mean a "Scheduled District" as defined in the [2]Scheduled Districts Act, 1874; XIV of 1874.

"Section."

(*42*) "section" shall mean a section of the Act in which the word occurs;

"Ship."

(*43*) "ship"' shall include every description of vessel used in navigation not exclusively propelled by oars;

"Sign."

(*44*) "sign", with its grammatical variations and cognate expressions, shall, with reference to a person who is unable to write his name, include "mark", with its grammatical variations and cognate expressions;

"Son."

(*45*) "son", in the case of any one whose personal law permits adoption, shall include an adopted son;

"Sub-section."

(*46*) "sub-section" shall mean a sub-section of the section in which the word occurs;

"Swear."

(*47*) "swear", with its grammatical variations and cognate expressions, shall include affirming and declaring in the case of persons by law allowed to affirm or declare instead of swearing;

"Vessel."

(*48*) "vessel" shall include any ship or boat or any other description of vessel used in navigation;

"Will."

(*49*) "will" shall include a codicil and every writing making a voluntary posthumous disposition of property;

"Writing."

(*50*) expressions referring to "writing" shall be construed as including references to pr nting, lithography, photography and other modes of representing or reproducing words or figures in a visible form on any substance; and

"Year."

(*51*) "year" shall mean a year reckoned according to the British calendar.

Application of certain of the foregoing definitions to previous Bombay Acts.

4. The definitions in section 3 of the following words, that is to say, "abet", "affidavit", [3]*, "Chapter", "City of Bombay", "Collector", "Commissioner", "good faith", [4][Greater Bombay] [3]*, "immoveable property", "imprisonment", "Magistrate", "month", "moveable property", "oath", "Part", "peron", [3]*, "Schedule", "section", "swear", "vessel", "writing" and "year", apply also, unless there is anything repugnant in the subject or context, to all Bombay Acts made before the commencement of this Act.

General Rules of Construction.

Coming into operation of Bombay Acts.

5. [5][(*1*) Where any Bombay Act is not expressed to come into operation on a particular day, then,

(*i*) in the case of a Bombay Act made before the commencement of the Constitution, it shall come into operation, if it is an Act of the Legislature, on the day on which the assent thereto of the Governor, the Governor General or His Majesty, as the case may require, is first published in the *Official Gazette* and, if it is an Act of the Governor, on the day on which it is first published as an Act in the *Official Gazette*;

(*ii*) in the case of a Bombay Act made after the commencement of the Constitution, it shall come into operation on the day on which the assent thereto of the Governor or the President, as the case may require, is first published in the *Official Gazette*.]

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[1] That is the villages belonging to the following Mehwassi Chiefs :—
(1) The Parvi of Kathi.
(2) The Parvi of Nal.
(3) The Parvi of Singpur.
(4) The Walwi of Gadhalli.
(5) The Wassawa of Chikhli.
(6) The Parvi of Nawalpur.

[2] The Scheduled Districts Act ceases to have effect under the Adaptation of Indian Laws Order in Council.

[3] The words "British India", "Government of India" and "Presidency of Bombay" were omitted by the Adaptation of Indian Laws Order in Council.

[4] These words were inserted by Bom. 17 of 1945 read with Bom. 52 of 1947, s. 2, proviso.

[5] This sub-section was substituted for the original sub-section by the Adaptation of Laws Order, 1950.

(*2*) Unless the contrary is expressed, a Bombay Act shall be construed as coming into operation immediately on the expiration of the day preceding its commencement.

Printing of date on which Act is published after having received the assent of the Governor, Governor General, or His Majesty, as the case may require.

6. In this Act, and in every Bombay Act made after the commencement of this Act, the date of such publication as is mentioned in section 5, sub-section (*1*), shall be printed above the title of the Act, and shall form part of the Act.

Effect of repeal.

7. Where this Act, or any Bombay Act made after the commencement of this Act, repeals any enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal shall not—

(*a*) revive anything not in force or existing at the time at which the repeal takes effect; or

(*b*) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder; or

(*c*) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed; or

(*d*) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or

(*e*) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid,

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the repealing Act had not been passed.

Repeal of enactment making textual amendment in any Act.

[1][**7A.** Where any Bombay Act made after the commencement of this Act repeals any enactment by which the text of any previous enactment was amended by the express omission, insertion or substitution of any matter, then, unless a dinerent intention appears, the repeal shall not affect the continuance of any such amendment made by the enactment so repealed and in operation at the time of such repeal.]

Revival of repealed enactments.

8. (*1*) In any Bombay Act made after the commencement of this Act it shall be necessary, for the purpose of reviving, either wholly or partially, any enactment wholly or partially repealed, expressly to state that purpose.

(*2*) This section applies also to all Bombay Acts made before the commencement of this Act.

Construction of references to repealed enactments.

9. Where this Act, or any Bombay Act made after the commencement of this Act, repeals and re-enacts, with or without modification, any provision of a former enactment, then references in any other enactment or in any instrument to the the provision so repealed shall, unless a different intention appears, be construed as references to the provision so re-enacted.

Commencement and termination of time.

10. (*1*) In any Bombay Act made after the commencement of this Act it shall be sufficient, for the purpose of excluding the first in a series of days or any other period of time, to use the word "from" and, for the purpose of including the last in a series of days or any other period of time, to use the word "to"

(*2*) This section applies also to all Bombay Acts made before the commencement of this Act.

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[1] This section was inserted by Bom. 5 of 1948, s. 3.

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Computation of time.

11. Where, by any Bombay Act made after the commencement of this Act, any act or proceeding is directed or allowed to be done or taken in any Court or office on a certain day or within a prescribed period, then, if the Court or office is closed on that day or the last day of the prescribed period, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open:

Provided that nothing in this section shall apply to any act or proceeding to which the [1]Indian Limitation Act, 1877, applies.

Measurement of distances.

12. In the measurement of any distance for the purpose of any Bombay Act made after the commencement of this Act, that distance shall, unless a different intention appears, be measured in a straight line on a horizontal plane.

Gender and number.

13. In all Bombay Acts, unless there is anything repugnant in the subject or context,—

(*a*) words importing the masculine gender shall be taken to include females; and

(*b*) words in the singular shall include the plural, and *vice versa*.

Powers and Functionaries.

Powers conferred on any Government to be exercisable from time to time.

14. Where, by any Bombay Act made after the commencement of this Act, any power is conferred on [2][any Government], then that power may be exercised from time to time as occasion requires.

Power to appoint to include power to appoint *ex-officio*.

15. Where, by any Bombay Act, a power to appoint any person to fill any office or execute any function is conferred, then, unless it is otherwise expressly provided, any such appointment, if it is made after the commencement of this Act, may be made either by name or by virtue of office.

Power to appoint to include power to suspend or dismiss.

16. Where, by any Bombay Act, a power to make any appointment is conferred, then, unless a different intention appears, the authority having power to make the appointment shall also have power to suspend or dismiss any person appointed by it in exercise of that power.

Substituion of functionaries.

17. (*1*) In any Bombay Act made after the commencement of this Act it shall be sufficient, for the purpose of indicating the application of a law to every person or number of persons for the time being executing the functions of an office, to mention the official title of the officer at present executing the functions, or that of the officer by whom the functions are commonly executed.

(*2*) This section applies also to all Bombay Acts made before the commencement of this Act.

Successors.

18. (*1*) In any Bombay Act made after the commencement of this Act it shall be sufficient, for the purpose of indicating the relation of a law to the successors of any functionaries or of corporations having perpetual succession, to express its relation to the functionaries or corporations.

(*2*) This section applies also to all Bombay Acts made before the commencement of this Act.

Official chiefs and subordinates.

19. (*1*) In any Bombay Act made after the commencement of this Act it shall be sufficient, for the purpose of expressing that a law relative to the chief or superior of an office shall apply to the deputies or subordinates lawfully performing the duties of that office in the place of their superior, to prescribe the duty of the superior.

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[1] *See* now the Indian Limitation Act, 1908 (9 of 1908), Central Acts.

[2] The words "any Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

(*2*) This section applies also to all Bombay Acts made before the commencement of this Act.

Provisions as to Orders, Rules, etc., made under Enactments.

Construction of orders, etc., issued under Bombay Acts.

20. Where, by any Bombay Act, a power to issue any notification, order, scheme, rule, by-law or form is conferred, then expressions used in the notification, order, scheme, rule, by-law or form, if it is made after the commencement of this Act, shall, unless there is anything repugnant in the subject or context, have the same respective meanings as in the Act conferring the power.

Power to make to include power to add to, amend, vary or rescind, orders, etc.

21. Where, by any Bombay Act, a power to issue notifications, orders, rules or by-laws is conferred, then that power includes a power, exercisable in the like manner and subject to the like sanction and conditions (if any), to add to, amend, vary or rescind any notifications, orders, rules or by-laws, so issued.

Making of rules or by-laws and issuing of orders between publication and commencement of Bombay Act.

22. Where, by any Bombay Act which is not to come into operation on [1][the passing thereof], a power is conferred to make rules or by-laws, or to issue orders with respect to the application of the Act, or with respect to the establishment of any Court or office, or the appointment of any Judge or officer thereunder, or with respect to the person by whom, or the time when, or the place where, or the manner in which, or the fees for which anything is to be done under the Act, then that power may be exercised at any time after [1][the passing thereof], but rules, by-laws or orders so made or issued shall not take effect till the commencement of the Act.

Publication of orders and notifications in the *Official Gazette* to be deemed to be due publication.

23. Where, in any Bombay Act or in any rule passed under any such Act, it is directed that any order, notification or other matter shall be notified or published, then such notification or publication shall, unless the enactment or rule otherwise provides, be deemed to be duly made if it is published in the [2][*Official Gazette*].

Provisions applicable to making of rules or by-laws after previous publication.

24. Where, by any Bombay Act, a power to make rules or by-laws is expressed to be given subject to the condition of the rules or by-laws being made after previous publication, then the following provisions shall apply, namely—

(*a*) the authority having power to make the rules or by-laws shall, before making them, publish a draft of the proposed rules or by-laws for the information of persons likely to be affected thereby;

(*b*) the publication shall be made in such manner as that authority deems to be sufficient or, if the condition with respect to previous publication so requires, in such manner as the [3][Central Government, or as the case may be, the Provincial Government] prescribes;

(*c*) there shall be published with the draft a notice specifying a date on or after which the draft will be taken into consideration;

(*d*) the authority having power to make the rules or by-laws, and, where the rules or by-laws are to be made with the sanction, approval or concurrence of another authority, that authority also, shall consider any objection or suggestion which may be received by the authority having power to make the rules or by-laws from any person with respect to the draft before the date so specified;

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[1] The words "the passing thereof" were substituted for the words "the day on which it is first published in the *Bombay Government Gazette* after having received the assent of the Governor-General" and "the Act has been published as aforesaid" respectively by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*". *ibid.*

[3] The words "Central Government, or as the case may be, the Provincial Government" were substituted for the words "Local Government", *ibid.*

(*e*) the publication in the [1][*Official Gazette*] of a rule or by-law purporting to have been made in exercise of a power to make rules or by-laws after previous publication shall be conclusive proof that the rule or by-law has been duly made.

Continuation of orders, etc. issued under enactments repealed and re-enacted.

25. Where any enactment is, after the commencement of this Act, repealed and re-enacted by a Bombay Act with or without modification, then, unless it is otherwise expressly provided, any appointment, notification, order, scheme, rule by-law or form made or issued under the repealed enactment shall, so far as it is not inconsistent with the provisions re-enacted, continue in force, and be deemed to have been made or issued under the provisions so re-enacted, unless and until it is superseded by any appointment, notification, order, scheme, rule, by-law or form made or issued under the provisions so re-enacted.

Miscellaneous.

Recovery of fines.

26. Sections 63 to 70 of the [2]Indian Penal Code, and the provisions of the Code of Criminal Procedure for the time being in force in relation to the issue and the execution of warrants for the levy of fines, shall apply to all fines imposed under any Bombay Act, or any rule or by-law made under any Bombay Act, unless the Act, rule or by-law contains an express provision to the contrary. XLV of 1860. V of 1898.

Provision as to offences punishable under two or more enactments.

27. Where an act or omission constitutes an offence under two or more enactments, then the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same offence.

Meaning of service by post.

28. Where any Bombay Act made after the commencement of this Act authorizes or requires any document to be served by post, whether the expression "serve" or either of the expressions "give" or "send" or any other expression is used, then, unless a different intention appears, the service shall be deemed to be effected by properly addressing, prepaying and posting by registered post, a letter containing the document, and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

Citation of enactments.

29. (*1*) In any Bombay Act, and in any rule, by-law, instrument or document made under, or with reference to, any Bombay Act, any enactment may be cited by reference to the title or short title (if any) conferred thereon or by reference to the number and year thereof, and any provision in an enactment may be cited by reference to the section or sub-section of the enactment in which the provision is contained.

(*2*) In this Act, and in any Bombay Act made after the commencement of this Act, a description or citation of a portion of another enactment shall, unless a different intention appears, be construed as including the word, section or other part mentioned or referred to as forming the beginning and as forming the end of the portion comprised in the description or citation.

Saving for previous Acts, rules and by-laws.

30. Where any Act, rule or by-law made after the commencement of this Act continues or amends any Acts, rules or by-laws made before the commencement of this Act, the foregoing sections of this Act shall not by reason merely of such continuance or amendment affect the construction of such Acts, rules or by-laws.

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[1] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[2] Central Acts.

Application of Act to Ordinances and Regulations.

[1][31. The provisions of this Act shall apply—

(*a*) in relation to any Ordinance promulgated by the Governor of Bombay under section 88 of the Government of India Act, 1935, as they apply in relation to Bombay Acts made under the said Act by the Governor and in relation to any Regulation made by the Governor under section 92 of the said Act as they apply in relation to Bombay Acts made by the Provincial Legislature ; and

(*b*) in relation to any Ordinance promulgated by the Governor under article 213 of the Constitution or any Regulation made by the Governor under paragraph 5 of the Fifth Schedule to the Constitution, as they apply in relation to Bombay Acts made by the State Legislature :

Provided that clause (*ii*) of sub-section (*1*) of section 5 of this Act shall apply to any Ordinance referred to in clause (*b*) as if for the reference in the said clause (*ii*) to the day of the first publication of the assent to an Act in the *Official Gazette* the e were substituted a reference to the day of the first publication of the Ordinance in that *Gazette*.]

THE SCHEDULE.

ENACTMENTS REPEALED.

(*See* section 2.)

Year.	No.	Title or Subject.	Extent of repeal.
1886 ..	III	The Bombay General Clauses Act, 1886 ..	The whole [2][except so much of [3]Schedule B as relates to unrepealed enactments].
1891 ..	I	An Act to amend the Bombay General Clauses Act, 1886.	So much as is unrepealed.
1896 ..	I	Do. do. ..	The whole.

APPENDIX.

[4]*SCHEDULE B to the Bombay General Clauses Act, 1886 (Bom. Act III of 1886).*

VERBAL AMENDMENTS MADE IN THE REGULATIONS AND ACTS OF THE GOVERNOR OF BOMBAY IN COUNCIL.

ENACTMENT.			Words repealed.	Words, if any, substituted for the words repealed.
No. and year.	Section.	Clause.		
Regulations.				
[5]XII of 1827 ..	19	1	"Magistrate"	"District Magistrate".
	19	6	"The Magistrate" (the first time the words occur).	"the District Magistrate".
	19	6	"the Magistrate" (the second time the words occur).	"any Magistrate"
	19	6	"ordinary"	"simple".
	19	6	"without labour"	....
	19	7	"Magistrate" (the first time the word occurs).	"District Magistrate".

[1] Section 31 was substituted by the Adaptation of Laws Order, 1950.

[2] These words were inserted by s. 2 of the Bombay Repealing and Amending Act, 1905 (Bom. 4 of 1905).

[3] Printed as an Appendix to this Act.

[4] This schedule so far as it affects unrepealed enactments has been reproduced here as an Appendix as the insertion of certain words in the schedule to Bom. I of 1904 by Bom. 4 of 1905, has revived it as regards such enactments. Entries relating to sections which have been repealed or substituted after the passing of Bom. 4 of 1905, have also been omitted, a footnote explanation being given in each case.

[5] Bom. Reg. XII of 1827, s. 19, cls. 1, 6, 7 and 8 are repealed by the Bombay District Police Act, 1890 (Bom 4 of 1890), wherever that Act extends. For the Regn. *see* Vol. I of this Code.

SCHEDULE B to the Bombay General Clauses Act, 1886 (Bom. Act III of 1886)—contd.

Enactment.			Words repealed.	Words, if any, substituted for the words repealed.
No. and year.	Section.	Clause.		
Regulations—contd.				
XII of 1827 —*contd.*	19	7	"Magistrate" (the second time the word occurs).	"Magistrate before whom proceedings against such individual are being held".
	19	8	"the Magistrate shall also" ..	"any Magistrate may".
	[1]20	..	[1]"Magistrate"	[1]"District Magistrate."
	27	2	"Magistrate" (each time the word occurs).	[1]"District Magistrate."
	27	2	"ordinary"	"simple".
	27	2	"without hard labour" ..	....
	37	1	"Magistrate"	"District or Sub-Divisional Magistrate".
[2]XXII of 1827 ..	40	..	"Magistrate"	"District Magistrate".
	41	1	"local"	"District".
	42	1	"local"	"District".
	42	2, 3, 4	"Magistrate" (each time the word occurs).	"District Magistrate".
[2]XXV of 1827 ..	4	2	"Magistrate" (both times the word occurs).	"District Magistrate".
	7	..	"Magistrate"	"District Magistrate".
Acts.				
[3]I of 1862 ..	1	..	"Annexed to this Act" ..	....
IV of 1862 ..	1	..	"the Magistrate" (the second time the words occur).	"a Magistrate of the first class".
	1	..	"calendar"	....
	6	..	"Magistrate"	"District Magistrate".
	6	..	"this Act"	"section 4".
	6	..	"of Police"	....
	7	..	"of either kind"	....
	7	..	"calendar"	....
	10	..	"Magistrate"	"District Magistrate".
	10	..	"of Police"	....
V of 1862 ..	3	..	"Calendar"	....
VI of 1862 ..	8 and 9	..	"Calendar" (each time the word occurs).	....
	21	..	"The following words and expressions".	....
	21	..	"shall have the meanings hereby assigned to them".	....
	21	..	"(that is say)" ..	....
I of 1863 ..	6	..	"Justice of the Peace or person exercising the powers of a Magistrate within the province of Sind".	"of the first class".
	12	..	Ditto ..	Ditto.
	11	..	"of this Act"	....

[1] On coming into force of Part VI of the Bombay Weights and Measures Act, 1932 (Bom. 15 of 1932) in any area the entry relating to section 20 of Bombay Regulation XII of 1827, shall be deemed to be repealed (*vide* Second Sch., Pt. II and s. 47 of Bom. 15 of 1932).

[2] See *supra*.

[3] Bom. 1 of 1862 has been repealed by Bom. 11 of 1928, s. 3, Second Schedule.

SCHEDULE B to the Bombay General Clauses Act, 1886 (Bom. Act III of 1886)—contd.

Enactment.			Words repealed.	Words, if any, substituted for the words repealed.
No. and year.	Section.	Clause.		
Acts—contd.				
II of 1863	2	..	"of this Act" (the first time the words occur).	....
	3, 4, 5, 7, 8, 10, 11 and 13	..	"of this Act" (each time the words occur).	....
	4, 5 and 11	..	"calendar" (each time the word occurs).	....
	5 and 11	..	"collectorate or" (each time the words occur).	....
	11	4	"collectorate" ..	"district".
	11	6	"collectorate" (each time the word occurs).	"district".
III of 1863	1 and 2	..	"to this Act" (each time the words occur).	....
V of 1863	20	..	"of this Act"	....
[1]* * * *	* *	* *	* * * * *	* * * *
VII of 1863	6	..	"of this Act" (the first time the words occur).	....
	7, 8, 9, 11, 12, 13 and 26	..	"of this Act" (each time the words occur).	....
	9	1 and 2	"collectorate or" (each time the words occur).	....
	9	3, 4, 6 and 7	"collectorate" (each time the word occurs).	"district".
	9	8	"calendar"	....
	9	9	"Revenue"	....
	9	9	"of the devision"	....
	12	..	"or Sub-Collector"	....
	20	2	"annexed"	....
VII of 1866	6	..	"of this Act"	....
XII of 1866	15	..	"annexed to this Act" ..	....
[2]* * *	* *	* *	* * * * *	* * *
VI of 1867	5, 9 and 10.	..	"of this Act" (each time the words occur).	....
[3]VII of 1867	34	..	"Of this Act" (each time the words occur).	....
	,,	..	"full-power Magistrate" ..	"Magistrate of the first class".

[1] The entry relating to Bom. 6 of 1863 is omitted as the Act has been repealed by Bom. 7 of 1920.

[2] The entry relating to Bom. 13 of 1866 is omitted as that Act ceases to have effect under the Adaptation of Indian Laws Order in Council.

[3] During such time as Bom. 6 of 1933 and the rules and by-laws shall be in operation in any village, sections 33 and 34 of Bom. 7 of 1867 cease to have any operation in the said village. *See* section 115 of Bom. 6 of 1933.

SCHEDULE B to the Bombay General Clauses Act, 1886 (Bom. Act III of 1886)—contd.

Enactment. No. and year.	Section.	Clause.	Words repealed.	Words, if any, substituted for the words repealed.
VIII of 1867	[1][1	..	"Commissioner of Police" Act, 1861.	"Acts, 1867 and 1890"].
	3, 4, 5, 15 and 18	..	"of Police" (wherever in the said sections those words follow the word "Commissioner").	....
	5	..	"Police" (in each place in which the word precedes the word "Commissioner").	....
	18	..	"of this Act"	....
II of 1868	17	..	"Revenue or Police" ..	....
[2]* * *	* * *	* *	* * * * * *	* * *
I of 1874	In the preamble	..	"to this Act"	....
	4	..	The last three words ..	....
	13	..	"of this Act" (the first time the words occur).	....
	14	..	"of this Act"	....
	29	..	"calendar"	....
II of 1874	15	..	"of this Act" (each time the words occur).	....
[3]III of 1874	3, 4, 6, 7, 10, 11, 12, 13, 21, 31, 37, 39, 55, 67, 73, 75, 76 and 83	..	"of this Act" (each time the words occur).	....
	6	1	"Revenue" (each time the word occurs).	....
	20	..	"of this Act" (the first time the words occur)	....
	40	1	The last three words	....
	73	2	"thereof"	....
	74	..	"revenue"	....
	"	..	"appointed under Regulation V of 1830, or other law in force for the time being".	....
	77	..	"empowered under the provisions of Bombay Act I of 1868."	....
	"	..	"so empowered"	....
	84	..	"Revenue"	....
III of 1875	7	..	"of either description" ..	....
	"	..	"calendar"	....

[1] Inserted by the Bombay General Clauses Amendment Act, 1891 (Bom. 1 of 1891).

[2] The entry relating to Bom. 3 of 1869 is omitted as that Act has been repealed by Bom. 6 of 1933

[3] The entries relating to ss. 44, 47, 50 and 59 of this Act are omitted as they have been repealed or substituted by Bom. 3 of 1910,

SCHEDULE B to the Bombay General Clauses Act, 1886 (Bom. Act III of 1886)—contd.

Enactment.			Words repealed.	Words, if any, substituted for the words repealed.
No. and year.	Section.	Clause.		
II of 1876	14, 16, 18 and 33	..	"of this Act" (each time the words occur).	....
	16	..	"hereunto annexed" ..	....
	31	..	"annexed to this Act" ..	....
[1]* * * * * * *			* * * * * * * * *	
I of 1877	3, 9, 16, 17 and 25.	..	"of this Act" (each time the words occur).	....
	9, 10, 11, 14, 15, 17 and 18	..	"hereto annexed" (each time the words occur).	....
	12	(*b*)	"of this Act"	....
	19	..	"of this Act" (the first time the words occur).	....
	23	(*b*)	"of this Act"	....
	20 and 24	..	"of either description within the meaning of the Indian Penal Code" (in each place in which these words occur).	....
	28	..	"The provisions of sections 64 to 70, both inclusive, of the Indian Penal Code shall apply to".	....
	28	..	"and all such fines"	....
[2]V of 1878	3	3	"means, in Sind, the [3][Provincial Government] and elsewhere a Commissioner of land-revenue, or, if Government appoint any other officer to be a Commissioner for the purposes of this Act, such other officer."	"includes an officer appointed by Government to be a Commissioner for the purposes of this Act".
	3	4	"means a Collector of land-revenue or".	"includes".
	45	..	"of this Act" (each time the words occur).	....
IV of 1879	3	..	The last three words	....
	9, 10, 11, 14, 15, 17 and 18	..	"hereto annexed" (each time the words occur).	....
	9, 16, 17 and 25	..	"of this Act" (each time the words occur).	....

[1] The entry relating to Bom. 3 of 1876 is omitted as the Act has been repealed by Bom. 2 of 1906.
[2] The entry relating to section 50 of this Act is omitted as the section has been subsequently substituted by Bom. 12 of 1912.
[3] The words "Provincial Government" were substituted for the words "Commissioner in Sind" by the Adaptation of Indian Laws Order in Council.

SCHEDULE B to the Bombay General Clauses Act, 1886 (Bom. Act III of 1886)—concld.

Enactment			Words repealed.	Words, if any, substituted for the words repealed.
No. and year.	Section.	Clause.		
IV of 8179—*contd.*	12	(*b*)	"of this Act"	....
	19	..	"of this Act" (the first time the words occur).	....
	20 and 24	..	"of either description within the meaning of the Indian Penal Code" (in each place in which the words occur).	....
	23	(*b*)	"of this Act"	....
V of 1879 ..	3	2	"of this Act"	....
	10, 13, 18, 38, 86, 87, 161 and 216	..	"of this Act" (each time the words occur).	....
	23	..	"to this Act"	....
[1]VI of 1879 ..	21 and 34	..	"of this Act"	....
[1]VII of 1879 ..	3	5	"means the head revenue officer of a district and".	....
	57	..	"of this Act"	....
	61 and 62	..	"of either description within the meaning of the said Code" (in each place in which these words occur).	....
	67	..	"of the division"	....
[1]I of 1880 ..	3	7	"hereto annexed	....
	33	(*b*)	"hereto annexed"	....
[1]I of 1883 ..	3, 5 and 8	..	"of this Act" (each time the words occur).	....
	3	..	"annexed to this Act" ..	....
[1]II of 1883 ..	In the preamble	..	"to this Act"	....
	4	..	"to this Act"	....
	17	..	"of this Act" (the first time the words occur).	....
[2]* *	* *	*	* * * * *	* *

[1] The entries relating to sections 2, 214 and 215 of this Act are omitted as these sections have been repealed or substituted by Bom. 4 of 1913.

[2] The entry relating to Bom. I of 1884 is omitted as that Act has been repealed by Bom. 6 of 1933.

THE BOMBAY COURT OF WARDS ACT, 1905.

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BOMBAY ACT No. I OF 1905.[1]

[THE BOMBAY COURT OF WARDS ACT, 1905.]

[*3rd June 1905.*]

Amended by Bom. 1 of 1910;
" " " 2 of 1913;
" " " 7 of 1934.
Adapted and modified by the Adaptation of Indian Laws Order in Council.
Amended by Bom. 17 of 1945*;
" " " 21 of 1949.
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 28 of 1950.

An Act to establish a Court of Wards in the Bombay Presidency.

WHEREAS it is expedient to establish a Court of Wards in the Bombay Presidency; Preamble.

AND WHEREAS the previous sanction of the Governor General required by section 5 of the [2]Indian Councils Act, 1892, has been obtained for the passing of this Act;

It is hereby enacted as follows:—

1. (*1*) This Act may be called the Bombay Court of Wards Act, 1905. Short title.

(*2*) It shall extend to the whole of the Bombay Presidency, except [3][the Greater Bombay] [4]* * *. Extent.

2. In this Act, unless there is anything repugnant in the subject or context— Definitions.

(*a*) "Government ward" shall mean any person of whose property, or of whose person and property, the Court of Wards may, for the time being, have the superintendence under this Act;

(*b*) "land-holder" shall mean,

(*i*) in the case of minors and persons adjudged by a competent Civil Court to be of unsound mind and incapable of managing their affairs, a holder as defined in the Bombay Land Revenue Code, 1879; and

[5][(*ii*) in all other cases, a zamindar, jagirdar, saranjamdar, inamdar, talukdar, malek and a khot, and any person not hereinbefore specified who is interested in land and whom the [6][[3][State] Government] has declared on account of the extent and value of his interests to be a land-holder for the purposes of this Act]:

Bom. V of 1879.

provided that no person who permanently resides, or carries on business, or personally works for gain in [3][the Greater Bombay] shall be deemed or declared to be a land-holder for the purposes of this Act;

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1904, Pt. VII, p. 83; for Report of Select Committee, *see ibid*, 1905, Pt. VII, p. 14, and for Proceedings in Council, *see ibid*, 1904, Pt. VII, pp. 144, 208; *ibid.*, 1905, Pt. VII, p. 42.

[2] *See* now the Government of India Act, 1935.

[3] These words were substituted for the words "the City of Bombay" by Bom. 17 of 1945, s. 9, Sch. E, read with Bom. 52 of 1947, s. 2, proviso.

[4] The words "and Aden" were omitted by the Adaptation of Indian Laws Order in Council.

[5] The paragraph was substituted by s. 2 (*a*) of the Bombay Court of Wards (Amendment) Act, 1913 (Bom. 2 of 1913).

[6] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[7] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

*This Act has been re-enacted and the amendments made by section 9 and Sch. E of the said Act have been continued in force by Bom. 52 of 1947, s. 2.

[1][(*bb*) "pension-holder" shall mean a person lawfully entitled to the whole or a part of a pension or cash-allowance granted or continued by Government on political considerations or of a hereditary pension or cash-allowance ;]

(*c*) "District Court" shall include the Court of an Assistant Judge invested under section 19 of the [2]Bombay Civil Courts Act, 1869, with all the powers of a District Judge ; and XIV of 1869.

(*d*) "minor" shall mean a person who, under the provsions of the [3]Indian Majority Act, 1875, is to be deemed not to have attained his majority. IX of 1875.

Commissioner to be Court of Wards.

3. Subject to the provisions of section 12 [4][the Collector shall be the Court of Wards for the limits of his district] :

Provided that the [5][6][State] Government] may, if [7][it] thinks fit, by notification in the [8][*Official Gazette*],

(*a*) appoint a special officer to be the Court of Wards for a division ; [9]* * * * or

(*b*) constitute a Board consieting of [10][two or more] officers to be the Court of Wards for a division ; or

(*c*) appoint any other officer or officers to be a Court of Wards for any part of the Bombay Presidency, and direct that such part shall thereupon be excluded from the jurisdiction of the Court of Wards of any division in which it lies wholly or partly.

Assumption of superintendence by Court of Wards of property of disquatified land-holder or pension-holder.

4. (*1*) The Court of Wards may, with the previous sanction of the [5][6][State] Government], assume the superintendence of the property of any land-holder, holding land [11][or of any pension-holder receiving a pension] within the local limits of its jursidiction who is disqualified to manage his own property :

Provided that in the case of a land-holder [12][or pension-holder] disqualified under clause (*b*) or (*c*) of sub-section (*1*) of section 5 such assumption shall be sanctioned only where the [5][6][State] Government] is of opinion that it is expedient in the public interests to preserve the property of such land-holder [12][or pension-holder] for the benefit of his family, and that the said property is of such value that economical management by the Court of Wards is practicable.

(*2*) No sanction given under sub-section (*1*) shall be called in question in any Court, except in the case of a land-holder [12][or pension-holder] disqualified under section 5, sub-section (*1*), clause (*a*), where proceedings are instituted within three mon hs of the giving of the sanction.

Land-holders or pension-holders to be deemed disqualified in certain cases.

5. (*1*) The following land-holders [13][or pension-holders] shall, for the purposes of section 4, be deemed to be disqualified to manage their own property, namely :—

(*a*) minors ;

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[1] This clause was inserted by s. 2 (*b*) of the Bombay Court of Wards (Amendment) Act, 1913 (Bom. 2 of 1913).

[2] *See Supra.*

[3] Central Acts.

[4] This portion was substituted for the words "the Commissioner shall be the Court of Wards for the limits of his division" by Bom. 28 of 1950. Sch.

[5] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[6] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[7] The word "it" was substituted for the word "he" by the Adaptation of Indian Laws Order in Council.

[8] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[9] The words "in lieu of the Commissioner" were deleted by Bom. 28 of 1950, Sch.

[10] These words were substituted for the words "the Commissioner and any other officer or", *ibid.*

[11] These words were inserted by s. 3 of the Bombay Court of Wards (Amendment) Act, 1913 (Bom. 2 of 1913).

[12] These words were inserted, *ibid.* s. 4 (*1*).

[13] These words were inserted, *ibid*, s 4 (*2*).

(*b*) females declared by the District Court, on the application of the Collector and after such judicial inquiry as it thinks necessary, to be unfi ted to manage their own property ;

(*c*) per ons declared by the District Court, on the like application and after the like inquiry, to be incapable f managing, or unfitted to manage, their own property owing to

(*i*) any physical or mental defect or infirm ty, or

(*ii*) such habits as cause, or are likely to cause, injury to their property or to the well-being of their inferior holders ; and

(*d*) persons adjudged by a competent Civil Court to be of unsound mind and incapable of managing their affairs.

(*2*) No appeal shall lie from any declaration under clause (*b*) or (*c*) of sub-section (*1*).

Assumption of superintendence where appointed guardian.

6. Where any [1][Government officer] is appointed or declared to be guardian of the property, or of the person and property, of a minor under section 7, sub-sect on (*1*), of the [2]Guard ans and Wards Act, 1890, he shall intimate the fact to the Court of Wards, and the Court of Wards may thereupon, with the previous sanct on of the [3][[4][State] Government], assume the superintendence of the property, or o the person and property of such minor.

VIII of 1890.

Superintendence not to be assumed where guardian appointed except with consent of District Court.

7. The Court of Wards shall not assume the superintendence of the property, or of the person and property, of any minor of whose property, or of whose person and property,

(*a*) a guardian has been appointed by will or other instrument, or

(*b* a guardian other than [5][a [1][Government officer]] has been appointed declared under section 7, sub-section (*1*), of the [2]Guardians and Wards Act, 1890,

VIII of 1890.

except with the previous consent of the District Court.

Superintendence not to be assumed under section 4 in case of undivided Hindu family unless all co-sharers disqualified; but may be assumed in other cases.

8. (*1*) The Court of Wards shall not assume under section 4, sub-section (*1*), the superintendence of the property of any family which is undivided according to Hindu law, except where all the co-sharers are disqualified under sub-section (*1*) of section 5 [6][or where all the co-sharers other than those who are disqualified under sub-section (*1*) of section 5 agree to the Court of Wards assuming such superintendence.]

(*2*) Where two or more land-holders [7][or pension-holders] are co-sharers otherwise than as co-sharers in a family which is undivided accordiug to Hindu law and one of such co-sharers is disqualified under sub-section (*1*) of section 5, the Court of Wards [8][may assume the superindendence of the undivided share of such

[1] These words were substituted for the words "servant of the Crown" by the Adaptation of Laws Order, 1950.

[2] Central Acts.

[3] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[4] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[5] The words "a servant of the Crown" were substituted for the words "an Officer of Government" by the Adaptation of Indian Laws Order in Council.

[6] These words were inserted by s. 5 of the Bombay Court of Wards (Amendment) Act, 1913 (Bom. 2 of 1913).

[7] These words were inserted, *ibid.*, s. 4 (*2*).

[8] These words were inserted by s. 2 and Sch. I, Part II, of the Bombay Repealing and Amending Act, 1910 (Bom. 1 of 1910).

disqualified land-holder [1][or pension-holder] or] may obtain partition on behalf of the disqualified land-holder [1][or pension-holder] by suit or otherwise, and assume the superintendence of the property allotted to such land-holder [1][or pension-holder.] in the partition.

Assumption of superintendence by Court of Wards on application of land-holder or pension-holder.

9. (*1*) Any land-holder [1][or pension holder] may apply in writing to the [2][3][State] Government] to have his property placed under the superintendence of the Court of Wards, and the [2][3][State] Government] may on such application, where [4][it] is of opinion that it is expedient in the public interests to preserve the property of such land-holder [1][or pension-holder] for the benefit of his family and that the said property is of such value that economical management by the Court of Wards is practicable, order the Court of Wards to assume the superintendence of the property.

[5] (*1A*) Any co-sharer of property, other than a co-sharer in a family undivided according to Hindu law, may make an application under sub-section (*1*) in respect of his own share in such property.]

(*2*) [6] In every case where property is held by co-sharers, whether as co-sharers in a family undivided according to Hindu law or otherwise] an application signed by co-sharers holding an aggregate interest of not less than three-fourths of the whole property shall, for the purposes of sub-section (*1*), be deemed to be an application by a land-holder [1][or pension-holder] in respect of [7][the whole property] :

Provided, *firstly*, that no order shall be made [8][on any such application] under sub-section (*1*) where it appears to the [2][3][State] Government] doubtful whether the aggregate interest of the co-sharers signing [9][the] application amounts to not less than three-fourths of the whole property ; and

Provided, *secondly*, that nothing in this Act shall be deemed to prevent any co-sharer other than those signing any such application from obtaining partition of his share, whether by suit or otherwise.

(*3*) An order made under sub-section (*1*) shall be sufficient to authorize the Court of Wards to assume the superintendence of the property referred to therein, and no such order shall be called in question in any Court.

Provisions for temporary custody of heirs and protection of property in certain cases.

10. (*1*) Whenever the Collector receives information that any land-holder [1][or pension-holder] is, or should be, disqualified under sub-section (*1*) of section 5, or that any land-holder [1][or pension-holder] has died and that his heir is, or should be, so disqualified, he may apply to District Court and the District Court may authorize the Court of Wards to

(*a*) take such steps and make such order for the temporary custody and protection of the property as the Court of Wards thinks fit ; and

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[1] These words were inserted by s. 4 (*1*) of the Bombay Court of Wards (Amendment) Act, 1913 (Bom. 2 of 1913).

[2] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

[3] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[4] The word " it " was substituted for the word " he ", by the Adaptation of Indian Laws Order in Council.

[5] This sub-section was inserted by s. 2 and Sch. I, Part II, of the Bombay Repealing and Amending Act, 1910 (Bom. 1 of 1910).

[6] These words were substituted for the words " Where property is held by co-sharers in undivided shares ", *ibid.*

[7] These words were substituted for the words " such property ", *ibid.*

[8] These words were inserted, *ibid.*

[9] This word was substituted for the words " any such ", *ibid.*

(*b*) where the land-holder [1][or pension-holder] or heir is a minor, direct that the person (if any) having the custody of the minor shall produce him or cause him to be produced at such place and time and before such person as the Court of Wards may appoint, and make such order for the temporary custody and protection of the minor as the Court of Wards thinks fit :

Provided that, where the minor is a female and belongs to a class the females of which do not usually appear in public, her production shall be required only in accordance with the manners and customs of the country.

(*2*) Whenever the Court of Wards is authorized to proceed under sub-section (*1*) it shall forthwith report its action for the information of the [2][Provincial Government].

(*3*) No appeal shall lie from any order of authorization under sub-section (*1*), except in the case of a land-holder [1][or pension-holder] disqualified under section 5, sub-section (*1*), clause (*a*).

Assumption of superintendence by Court of Wards of person of disqualified land-holder or pension-holder in certain cases.

11. Where the Court of Wards assumes the superintendence of the property of any land-holder [1][or pension-holder] disqualified under clause (*a*) or (*d*) of section 5, sub-section (*1*), it may, with the previous sanction of the [2][Provincial Government], assume the superintendence of his person also :

Provided that nothing in this section shall authorize the Court of Wards to assume the superintendence of the person of a female who is married and is in the custody of her husband.

Assumption of superintendence by Court of Wards where land-holder or pension-holder holds land in more than one jurisdiction.

12. Where a disqualified land-holder [1][or pension-holder] or a land-holder [1][or pension-holder] who has been made a Government ward in pursuance of an order under section 9, sub-section (*1*), holds land [3][or receives a pension] within the territorial jurisdiction of two or more Courts of Wards such one only of the Courts of Wards as the [2][Provincial Government] may determine in this behalf shall assume the superintendence of the property, or of the person and property, of the land-holder [1][or pension-holder].

Assumption of superintendence to be notified and to extend to whole of Government ward's property.

13. (*1*) Whenever the Court of Wards assumes the superintendence of the property of any land-holder [1][or pension-holder] under this Act, the fact of such assumption, and the date on which it was sanctioned by the [2][Provincial Government], shall be notified in the [4][*Official Gazette*] and in such other manner as the [2][Provincial Government] may, by general or special order, direct.

(*2*) On and with effect from the date of such sanction, the whole of the property, moveable and immovable, of such land-holder [1][or pension-holder], whether the existence of any such property is known to the Court of Wards or not, shall be deemed to be under the superintendence of the Court of Wards.

(*3*) Any property which the Government ward may inherit or acquire by succession subsequently to the date of such sanction shall also be deemed to be under the superintendence of the Court of Wards.

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[1] These words were inserted by s. 4 (*1*) of the Bombay Court of Wards (Amendment) Act, 1913 (Bom. 2 of 1913).

[2] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

[3] These words were inserted by s. 4 (*3*) of the Bombay Court of Wards (Amendment) Act, 1913 (Bom. 2 of 1913).

[4] The words " *Official Gazette* " were substituted for the words " *Bombay Government Gazette* " by the Adaptation of Indian Laws Order in Council.

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(*4*) The Court of Wards may, in its discretion, assume, or refrain from assuming, the superintendence of any property which the Government ward may acquire otherwise than by inheritance or succession subsequently to the date of such notification.

Publication of notice to claimants against Government ward.

14. (*1*) On the issue of a notification under section 13, sub-section (*1*), the Court of Wards shall publish in the [1][*Official Gazette*], and in such other manner as the [2][Provincial Government] may, by general or special order, direct, a notice, in English and also in the vernacular, calling upon all persons having claims against the Government ward or his property to submit the same in writing to it within six months from the date of the publication of the notice.

(*2*) Where the Court of Wards is satisfied that any claimant was unable to comply with the notice published under sub-section (*1*), it may allow his claim to be submitted at any time after the date of the expiry of the period fixed therein; but any such claim shall, notwithstanding any law, contract, decree or award to the contrary, cease to carry interest from the date of the expiry of such period until submission.

(*3*) Every claim against the Government ward or his property (other than a claim [3][on the part of the Crown]) not submitted to the Court of Wards in compliance with the notice published under sub-section (*1*), or allowed to be submitted under sub-section (*2*), shall, save in the cases provided for by section 18, sub-section (*2*), clause (*c*), and by sections 7 and 13 of the [4]Indian Limitation Act, 1877, be deemed for all purposes and on all occasions, whether during the continuance of the superintendence or afterwards, to have been duly discharged, unless, in any suit or proceeding instituted by the claimant, or by any person claiming under him, in respect of any such claim, it is proved to the satisfaction of the Court that he was unable to comply with the notice published under sub-section (*1*).

Power to require claimants to furnish full particulars and documents.

15. (*1*) The Court of Wards may by written order require that any claimant submitting his claim shall, within such reasonable time as it may prescribe in such order, furnish full particulars thereof, and produce all documents (including entries in books of account) on which he relies to support his claim, together with a true copy of every such document:

Provided that, where the claim relates to an amount secured by a decree or award, it shall be sufficient for the claimant to produce before the Court of Wards, a certified copy of the decree and a certificate from the Court which passed or is executing the same declaring the amount recoverable thereunder, or a true copy of the award and statement of the sum recoverable thereunder, as the case may be; and where the claim is pending adjudication in any Court or has been referred to arbitration, it shall be sufficient for the claimant to produce a certified copy of the plaint, or a true copy of the reference to arbitration, as the case may be.

(*2*) The Court of Wards shall, after marking, for the purpose of identification, every original document so produced and verifying the correctness of the copy, retain the copy and return the original to the claimant.

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[1] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[2] The words "Provincial Government" were substituted for the words "Governor in Council", *ibid.*

[3] The words "on the part of the Crown" were substituted for the words "on the part of Government", *ibid.*

[4] *See* now the Indian Limitation Act, 1908 (9 of 1908), Central Acts.

(*3*) Where any document, which is in the possession or under the control of a claimant, is not produced by him in accordance with an order under sub-section (*1*), the document shall not be admissible in evidence against the Government ward, whether during the continuance of the superintendence or afterwards, in any suit brought by such claimant, or by any person claiming under him, in respect of any claim to which such document relates, unless it is proved to the satisfaction of the Court that he was unable to produce such document as required by such order.

Investigation and decision of claims.

16. (*1*) On receipt of all claims submitted in compliance with the provisions of sections 14 and 15, the Court of Wards shall proceed to investigate such claims and shall decide, subject to the provisions of sub-section (*3*), which of them are to be wholly or partly admitted or wholly or partly rejected, as the case may be, and shall communicate its decision in writing to each claimant concerned.

(*2*) Where the Court of Wards has admitted any claim under sub-section (*1*), it may make to the claimant a proposal in writing for the reduction of the claim, or of the rate of interest to be paid in future, or of both ; and if such proposal or any modification of it, is accepted by the claimant, and his acceptance is finally recorded and attested by the Court of Wards or by any Revenue-officer not below the rank of an Assistant or Deputy Collector whom the [1][[2][State] Government] may, by general or special order, appoint in this behalf, it shall be conclusively binding upon the claimant :

Provided that if, when the superintendence of the property by the Court of Wards is withdrawn, any portion of the claim reduced as aforesaid is still unsatisfied, the claimant shall be entitled to recover a sum bearing the same proportion to the original claim admitted under sub-section (*1*) as the unsatisfied portion bears to the reduced claim.

(*3*) Subject to the provisions of sub-section (*2*), nothing in this section shall be construed to bar the institution of a suit in a Civil Court for the recovery of a claim against a Government ward or his property which has been duly submitted to the Court of Wards :

Provided that no decision of the Court of Wards under this section shall be proved in any such suit as against the defendant.

Execution of decrees to be stayed till certificate filed.

17. (*1*) On the publication of a notice under section 14, sub-section (*1*), no proceeding in execution of any decree against the Government ward or his property shall be instituted or continued until the decree-holder files a certificate from the Court of Wards that the decree-claim has been duly submitted or until the expiration of one month from the date of receipt by the Court of Wards of a written application for such certificate, accompanied by a certified copy of a decree.

(*2*) Any person holding a decree against the Government ward or his property shall be entitled to receive from the Court of Wards, free of cost, the certificate required by sub-section (*1*).

(*3*) In computing the period of limitation prescribed by the [3]Indian Limitation Act, 1877, or by section 230 of the [4]Code of Civil Procedure, for any application for the execution of a decree, proceedings in which have been stayed or temporarily barred by reason of the claim not having been duly submitted, the time from the date of the notice published under section 14, sub-section (*1*) or of the decree if it was passed subsequently to the publication of the notice, to the date of due submission shall be excluded.

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[1] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.
[2] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[3] *See* now the Indian Limitation Act, 1908 (9 of 1908), Central Acts.
[4] *See* now the Code of Civil Procedure, 1908 (5 of 1908), Central Acts.

Report to [2][State] Government.

18. (*1*) When all claims have been investigated under section 16, the Court of Wards shall submit to the [1][[2][State] Government] a schedule of the debts and liabilities of the Government ward, and the [1][[2][State] Government] may, where the property appears to be involved beyond all hope of extrication, or for any other sufficient reason, by order published in the [3][*Official Gazette*], direct that, on a date to be fixed by the order, the superintendence of the property, or of the person and property, of the Government ward by the Court of Wards shall be withdrawn.

(*2*) On the date so fixed

(*a*) the superintendence shall terminate ;

(*b*) the owner of the property under superintendence shall be restored to the possession thereof, subject to any contracts entered into by the Court of Wards for the preservation or benefit of such property ; and

(*c*) the claims referred to in section 14, sub-section (*3*), shall revive.

(*3*) In calculating the periods of limitation applicable to suits to recover and enforce claims revived under sub-section (*2*), clause (*c*), the time during which such superintendence has continued shall be excluded.

Delegation of powers by Court of Wards.

19. (*1*) [4][Where the Collector is not the Court of Wards] with the general or special sanction of the [1][[2][State] Government], the Court of Wards may, from time to time, delegate all or any of its powers to the Collector of any district in which any part of the property of a Government ward is situated, or to any other officer not below the rank of an Assistant or Deputy Collector whom it may appoint in this behalf, and may, at any time, with the like sanction, revoke such delegation.

(*2*) [4][Where the Collector is not the Court of Wards] subject to any general or special orders of the [1][[2][State] Government], the Court of Wards may exercise all or any of the powers conferred on it by this Act through the Collector of any district in which any part of the property of a Government ward is situated, or through any other officer not below the rank of an Assistant or Deputy Collector whom it may appoint in this behalf, and, subject to the like orders, any such Collector or Assistant or Deputy Collector may exercise all or any of the powers delegated to him under this Act through any Revenue-Officer subordinate to him not below the rank of a Mahalkari.

[5][(*3*) Where the Collector is the Court of Wards, subject to any general or special orders of the State Government, the Court of Wards may exercise all or any of the powers under this Act through an Assistant or Deputy Collector whom it may appoint in this behalf and subject to the like orders, any such Assistant or Deputy Collector may exercise all or any of the powers delegated to him under this Act through any Revenue Officer subordinate to him not below the rank of a Mahalkari.]

Appointment of manager by Court of Wards.

20. The Court of Wards may appoint a manager of the property of any Government ward under its superintendence.

Liabilities, etc., of managers appointed by Court of Wards.

21. (*1*) Every manager appointed by the Court of Wards shall—

(*a*) give such security, with such sureties (if any), as the Court of Wards thinks fit for the due discharge of the trusts of his office, and for the due account of all property and moneys which come into his control or possession by reason of his office ;

(*b*) entitled to such allowance as the Court of Wards thinks fit for his care and pains in the execution of his duties ; and

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[1] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[3] The words " *Official Gazette* " were substituted for the words " *Bombay Government Gazette* ", by the Adaptation of Indian Laws Order in Council.

[4] This portion was inserted by Bom. 28 of 1950, Sch.

[5] Sub-section (*3*) was added, *ibid.*

(*c*) be responsible for any loss occasioned to the property under his management by his wilful default or gross negligence ; and every such loss shall be recoverable from him and from his sureties (if any) as an arrear of land-revenue.

Managers and other servants to be deemed public servants.

XLV of 1860.

(2) Every manager or other servant of the Court of Wards shall be deemed to be a " public servant " within the meaning of Chapter IX of the [1]Indian Penal Code ; and, in the definition of " legal remuneration " contained in section 161 of the said Code, the word " Government " shall, for the purposes of this sub-section, be deemed to include the Court of Wards.

Power of Court of Wards to appoint guardians of certain Government wards.

22. (*1*) The Court of Wards may appoint guardians for the care of the persons of Government wards whose persons are, for the time being, under its superintendence.

VIII of 1890.

(2) In appointing a guardian under this section, the Court of Wards shall be guided by the provisions of the [1]Guardians and Wards Act, 1890.

General powers of Court of Wards.

23. Subject to the provisions of this Act and of any rules thereunder, the Court of Wards

(*a*) may, of itself or through the manager (if any) appointed by it under this Act, do all such things requisite for the proper care and management of any property of which it assumes the superintendence under this Act, as the owner of the property, if it was not under the superintendence of the Court of Wards, might do for its proper care and management ; and

(*b*) may, of itself or through the guardian (if any) appointed by it under this Act, do, in respect of the person of any Government ward whose person is, for the time being, under its superintendence, all such things as may lawfully be done by a guardian.

Custody, residence and education of certain Government wards.

24. The Court of Wards may pass such orders as it thinks fit in respect of the custody and residence of any Government ward whose person is, for the time being, under its superintendence, and, where he is a minor, in respect of his education.

Allowance for Government ward, his family and dependents.

25. The Court of Wards may, from time to time, determine what sums shall be allowed in respect of the expenses of any Government ward and of his family and dependents.

Duties of Court of Wards or manager.

26. The Court of Wards, or the manager (if any) appointed by it under this Act, shall manage the property of every Government ward under its superintendence or under his management diligently and faithfully for the benefit of the Government ward, and shall in every respect act to the best of its or his judgment for the Government ward's interest as if the property were its or his own.

Power of Court of Wards as to property of Government wards

[2][**27.** The Court of Wards may sell, exchange, mortgage, charge or let the property of a Government ward, and may do all such things as it may judge to

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[1] Central Acts.

[2] This section was substituted by s. 6 of the Bombay Court of Wards (Amendment) Act, 1913 (Bom. 2 of 1913).

be best for the benefit of the property and the advantage of the Government ward : Provided that—

(*a*) the previous sanction of the [1][Provincial Government] shall be required to any sale, exchange or mortgage of, or charge on, immovable property and to any lease of such property for a term exceeding ten years, and

(*b*) where [2][one-third] of the immovable property of a Government ward has been sold or exchanged no further sale or exchange shall be made.]

Power of Court of Wards to evict.

28. The Court of Wards may summarily evict in the manner specified in section 202 of the Bombay Land Revenue Code, 1879, any person occupying, or in possession of, any immovable property under its superintendence, to the use and occupation of which he has ceased to be entitled under any of the provisions of that Code, or which he uses or occupies in contravention of any of the provisions of this Act. Bom. V of 1879.

Recovery of arrears of rent as arrears of land-revenue.

[3][**29.** For the purpose of the recovery of rents, profits and other sums due in respect of property under the superintendence of the Court of Wards (whether such arrears become due before or after the assumption of such superintendence) the Court of Wards shall have all the powers possessed by a Collector under the law for the time being in force for the recovery of land-revenue due to Government, including the power conferred by section 176 of the Bombay Land Revenue Code, 1879.] Bom. V of 1879.

Property under superintendence not liable to sale for arrears.

30. No immovable property under the superintendence of the Court of Wards shall be liable to sale on account of arrears of land-revenue :

Provided that all such arrears of land-revenue shall be the first charge upon the sale-proceeds of any such property which may be sold for any other cause than for arrears of land-revenue.

Power of Court of Wards to direct any property of Government ward to be exempt from process of Civil Court.

[4][**30A.** (*1*) Whenever it shall appear to the Court of Wards that by virtue of or in execution of a decree or order of a Civil Court, the property of a Government ward under its superintendence is or is likely to be insufficient for the payment of the expenses—

(*a*) of the management of the property of the said ward under this Act, or

(*b*) of the said ward, his family and dependents, allowed under section 25,

the Court of Wards may issue a certificate in writing to the Civil Court executing the said decree or order directing that the said property shall for such period as the Court of Wards may from time to time deem expedient, be exempt from any attachment, sale, transfer or other process by a Civil Court.

(*2*) Upon the receipt of such certificate the Civil Court executing the decree or order against the Government ward shall, notwithstanding anything contained in section 17 or any other law for the time being in force, remove any attachment or other process pending against the property specified in the certificate and shall set aside any order of sale or transfer of the said property and thereupon the said property shall be exempt from any attachment, sale, transfer or

[1] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word " one-fourth " by Bom. 21 of 1949, s. 2.

[3] This section was substituted by s. 7 of the Bombay Court of Wards (Amendment) Act, 1913 (Bom. 2 of 1913).

[4] Section 30A was inserted by Bom. 7 of 1934, s. 2.

other process by a Civil Court for the period specified in the said certificate and during the said period the execution of such decree or order shall so far as it affects the said property for the purposes of secton 15 of the Indian Limitation Act, 1908, be deemed to have been stayed :

IX of 1908.

Provided that if the superintendence of the Court of Wards of the property of the said Government ward terminates under section 18 or is withdrawn under section 40, the exemption granted under this section shall with effect from the date of such termination or withdrawal cease to be in operation.]

Notice of suit.

31. No suit relating to the person or property of any Government ward shall be brought in any Civil Court until the expiration of two months after notice in writing stating the name and place of abode of the intending plaintiff, the cause of action and the relief claimed, has been delivered to, or left at the office of, the Court of Wards ; and the plaint shall contain a statement that such notice has been so delivered or left :

Provided that notice under this section shall not be required in the case of any suit the period of limitation for which will expire within three months from the date of a notification issued under section 13, sub-section (*1*).

Manager or Court of Wards to be next friend or guardian in suit by or against Government wards.

32. Subject to the provisions of the second paragraph of section 440 of the [1]Code of Civil Procedure, in every suit brought by or against a Government ward, the manager of the Government ward's property, or, where there is no manager, the Court of Wards having the superintendence of the Government ward's property, shall be named as the next friend or guardian for the suit, as the case may be.

Payment of costs.

33. Where, in any suit brought by or against a Government ward any Civil Court decrees any costs against the Government ward's next friend or guardian for the suit, the Court of Wards shall cause the costs to be paid out of any property of the Government ward which may, for the time being, be in its hands.

Processes against Government ward to be served on next friend or guardian.

34. Every process which may be issued out of any Civil or Revenue Court against any Government ward shall be served on the Government ward's next friend or guardian for the suit.

Authority of Court of Wards required in case of suits brought on behalf of Government wards.

35. No suit shall be brought, and no appeal in any suit shall be preferred, by any guardian or manager appointed by the Court of Wards on behalf of any Government ward unless it is authorized by an order in writing of the Court of Wards :

Provided that a manager may authorize a plaint or a memorandum of appeal to be filed in order to prevent a suit or appeal from being barred by the law of limitation, but the suit or appeal shall not afterwards be proceeded with except with the sanction of the Court of Wards.

Adjudication of civil disputes between two or more Government wards.

36. (*1*) Where any question arises as between two or more Government wards of such a nature that an adjudication upon it by a Civil Court is expedient, it shall be lawful for the Court of Wards, acting through the Collector of the district in which a case might have been stated for the opinion of the Civil Court with regard

[1] *See* now the Code of Civil Procedure, 1908 (Act 5 of 1908).

to such matter under section 527 of the [1]Code of Civil Procedure, to file in the Civil Court having jursidiction a statement containing the point or points for determination.

(*2*) When such statement has been filed, the Court shall appoint a guardian for the suit for each ward having a separate interest, and such guardians shall thereupon conduct the case subject to the general control of the Court of Wards.

(*3*) The Court may, if it thinks fit, amend the case so stated and shall then proceed to hear and dispose of the case in the manner provided in Chapter XXXVIII of the [1]Code of Civil Procedure for the hearing and disposal of cases stated for opinion under that Chapter.

Disabilities of a Government ward.

37. (*1*) Except with the approval of the Court of Wards, a Government ward shall be incompetent to transfer or create any charge on, or interest in, his property or any part thereof (except such interest as may be created by a will made in accordance with section 38), or to enter into any contract which may involve him in pecuniary liability; and no suit shall be brought in any Civil Court whereby to charge any person upon any promise made after he has ceased to be a Government ward to pay any debt contracted during the period when he was a Government ward, or upon any ratification made after he has ceased to be a Government ward of any promise or contract made during the period aforesaid, whether there is or is not any new consideration for such promise or ratification.

(*2*) Nothing in this section shall be deemed to affect the capacity of a Government ward to enter into a contract of marriage:

Provided that a Government ward shall not incur, in connection with such a contract, any pecuniary liability, except such as, having regard to the personal law to which he is subject and to his rank and circumstances, the Court of Wards may, in writing, declare to be reasonable.

Consent of Provincial Government necessary to wills made by Government wards.

38. No will made by a Government ward shall be valid without the consent of the [2][Provincial Government] obtained, either previously or subsequently to the making of the will, on application made to [3][it] through the Court of Wards:

Provided that consent shall not be withheld unless it appears to the [2][Provincial Government] that the will is contrary to the personal or special law applicable to the ward, or that it is likely to cause considerable pecuniary embarrassment to the property, or to lower considerably the influence or respectability of the family in public estimation.

Procedure when succession to Government ward's property is disputed.

39. Where on the death of any Government ward, the succession to his property or any part thereof is disputed the Court of Wards may, with the sanction of the [2][Provincial Government], either retain the superintendence of the property until one of the claimants has established his claim to the same in a competent Civil Court, or institute a suit of interpleader against all the claimants.

Withdrawal of superintendence of Court of Wards.

40. (*1*) Where superintendence has been assumed in pursuance of an order under section 9, sub-section (*1*), the Court of Wards shall withdraw such superintendence as soon as, in the opinion of the [2][Provincial Government], the property is free from embarrassment.

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[1] *See* now the Code of Civil Procedure, 1908 (Act 5 of 1908).

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[3] The word "it" was substituted for the word "him", *ibid.*

(*2*) The Court of Wards may, with the sanction of the [1][[2][State] Government], at any time withdraw its superintendence from the person or property, or both, of a Government ward, and shall withdraw its superintendence as soon as, in the opinion of the District Court, certified to the Court of Wards,

(*a*) in the case of a person disqualified under clause (*a*) of sub-section (*1*) of section 5, he attains or has attained his majority ;

(*b*) in the case of a female disqualified under clause (*b*) of the same sub-section, she is fit to manage her own property ;

(*c*) in the case of a person disqualified under clause (*c*) of the same sub-section, he is fit to manage his own property ;

(*d*) in the case of a person disqualified under clause (*d*) of the same sub-section, he ceases to be of unsound mind and incapable of managing his affairs ; and

(*e*) where it was assumed under section 4, sub-section (*1*), in the case of a family which was undivided according to Hindu law, any co-sharer ceases to be disqualified under sub-section (*1*) of section 5 :

Provided, *firstly*, that

(*i*) where a Government ward dies or ceases to be disqualified and his property is still encumbered with debts and liabilities, the Court of Wards may, with the sanction of the [1][[2][State] Government] retain the said property under its superintendence until such debts and liabilities have been discharged ; and

(*ii*) in the case of land-holders [3][or pension-holders], [4][who are co-sharers in a family which is undivided according to Hindu law] where one or more of the proprietors of a property remain disqualified although another or others have ceased to be disqualified, the Cour of Wards may, with the sanction of the [1][[2][State] Government], retain the whole of the property under its superintendence, paying any proprietor who has ceased to be disqualified [5][from surplus income such portion as shall be proportionate to his interest in the estate] :

Provided, *secondly*, that, where the Court of Wards withdraws its superintendence, such withdrawal shall not affect any contract entered into by the Court of Wards in the lawful exercise of its powers ; and

Provided, *thirdly*, that

(*a*) no person who has once been declared disqualified under clause (*b*) or (*c*) of sub-section (*1*) of section 5, and

(*b*) except in the case of any co-sharer other than those signing an application described in section 9, sub-section (*2*), no land-holders [6][or pension-holder] who has been made a Government ward in pursuance of an order under section 9, sub-section (*1*),

shall be competent, on the withdrawal of such superintendence, to transfer or create any charge on or interest in his property or any part thereof for a period beyond the term of his natural life, except with the previous sanction of the Collector.

(*3*) No appeal shall lie from any opinion certified under sub-section (*2*).

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[1] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[3] These words were inserted by s. 4 (*2*) of the Bombay Court of Wards (Amendment) Act, 1913 (Bom. 2 of 1913).

[4] These words were substituted for the words, figures and brackets " referred to in section 8, sub-section (*2*) " by s. 2 and Sch. I, Part II, of the Bombay Repealing and Amending Act, 1910 (Bom. 1 of 1910).

[5] These words were substituted for the words " the surplus income accruing from his share of the estate ", *ibid.*

[6] These words were inserted by s. 4 (*1*) of the Bombay Court of Wards (Amendment) Act, 1913 (Bom. 2 of 1913).

Appointment of guardian in certain cases.

41. (*1*) Where, in exercise of the power conferred by section 40, the Court of Wards decides to withdraw its superintendence from the person or property, or both, of any minor, it shall, before such withdrawal, by an order in writing, appoint some person to be guardian of the person or property, or both, of the minor, and such appointment shall take effect from the date of such withdrawal.

(*2*) In appointing a guardian under this section, the Court of Wards shall be guided by the provisions of the [1]Guardians and Wards Act, 1890; and every guardian so appointed shall have, and be subject to, the same rights, duties and liabilities as if he had been appointed under that Act. VIII of 1890

Withdrawal to be notified in *Official Gazette*.

42. Where the Court of Wards withdraws its superintendence from any person or property under this Act, the fact of such withdrawal shall be notified in the [2][*Official Gazette*] and in such other manner as the [3][[4][State] Government] may, by general or special order, direct.

Appeals.

43. (*1*) An appeal shall lie from every order, other than an order of the District Court, passed under this Act, whether original or on appeal,

(*a*) where the order is that of a [5][Collector], or of any special or other officer appointed or Board constituted, under the proviso to section 3, to the [3][[4][State] Government];

[6]* * * * * *

(*c*) in all other cases, to the Collector:

[7][Provided that where any such officer or Board has been appointed to be Court of Wards and the order has been passed by any officer subordinate to such Court of Wards for the purposes of this Act, the [3][[4][State] Government] may direct that appeals shall lie to such officer or Board.]

(*2*) The provisions of sections 205 to 210, both inclusive, of the [8]Bombay Land Revenue Code, 1879, shall apply to all such appeals. Bom. V of 1879.

Control of Provincial Government.

44. All orders or proceedings under this Act, other than orders or proceedings of the District Court, shall be subject to the supervision and control of the [3][[4][State] Government]; and the [3][[4][State] Government] may, if [9][it] thinks fit, revise, modify, or reverse any such order or proceeding, whether an appeal is presented against any such order or proceeding or not.

Power to compel attendance of witnesses.

[10][**44A.** For the purposes of this Act, the Court of Wards may summon and enforce the attendance of witnesses and compel them to give evidence, and compel the production of documents, by the same means and, as far as possible, in the same manner, as is provided in the case of a Civil Court by the Code of Civil Procedure, 1908.]

Bar of suits

45. No suit shall be brought in any Civil Court in respect of the exercise of any discretion conferred by this Act, or against the Court of Wards or any public servant or person duly appointed or authorized under this Act in respect of anything in

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[1] Central Acts.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[3] The words "Provincial Government" were substituted for the words "Governor in Council", *ibid.*

[4] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[5] This word was substituted for the word "Commissioner" by Bom. 28 of 1950, Sch.

[6] Clause (*b*) was deleted, *ibid.*

[7] This proviso was added by s. 8 of the Bombay Court of Wards (Amendment) Act, 1913 (Bom. 2 of 1913).

[8] *See supra.*

[9] The word "it" was substituted for the word "he" by the Adaptation of Indian Laws Order in Council.

[10] This section was inserted by s. 9 of the Bombay Court of Wards (Amendment) Act, 1913 (Bom. 2 of 1913).

good faith done or purporting to be done under the provisions thereof or the rules made thereunder :

Provided, *firstly*, that any person evicted under section 28 may sue for restitution ; and

Provided, *secondly*, that any tenant from whom an arrear of rent has been recovered under section 29 may sue for recovery of the amount, or any part thereof, so recovered.

Power of [2][State] Government to make rules.

46. (*1*) The [1][[2][State] Government] may, by notification published in the [3] *Official Gazette*], make rules to carry out the purposes and objects of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may

(*a*) prescribe the matters to which regard should be had in appointing or removing guardians and managers, and in fixing their remuneration ;

(*b*) regulate the form, conditions and amount of security, and the number of sureties (if any), to be given by managers ;

(*c*) prescribe the cases in which proposals or arrangements connected with the administration of the properties of Government wards shall be reported for the sanction of the [1][[2][State] Government] ;

(*d*) prescribe the accounts and other returns, and the form and other particulars thereof, which shall be rendered to the Court of Wards and by the Court of Wards to the [1][[2][State] Government] ;

(*e*) regulate the custody of securities and title-deeds belonging to the estate or property of a Government ward ;

(*f*) regulate the procedure in inquiries by, and in appeals from orders of the Court of Wards ;

(*g*) prescribe the mode in which powers delegated to managers are to be notified for the information of persons concerned ;

(*h*) prescribe the mode in which any expenses incurred by the Court of Wards or the Collector under any power conferred by this Act may be recovered ; and

(*i*) generally prescribe the manner in which the powers and duties of the Court of Wards under this Act shall be exercised and performed.

Application of Act to estates of Rulers of Indian States.

[4][**47.** The powers and functions conferred on the State Government by or under this Act shall, in relation to the estates of Rulers of Indian States, be powers and functions of the Central Government.]

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", by the Adaptation of Indian Laws Order in Council.

[4] Section 47 was inserted by the Adaptation of Laws Order, 1950.

THE MAMLATDARS' COURTS ACT, 1906.

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SCHEDULE C.

BOMBAY ACT No. II OF 1906.[1]

[THE MAMLATDARS' COURTS ACT, 1906.]

[*29th October 1906*]

Amended by Bom. 7 of 1926 (when notified).
" " " 11 of 1928.
Adapted and modified by the Adaptation of Indian Laws Order in Council.
*Amended by Bom. 24 of 1942.
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 66 of 1954.

An Act to consolidate and amend the law relating to the powers and procedure of Mamlatdars' Courts.

WHEREAS it is expedient to consolidate and amend the law relating to the powers and procedure of Mamlatdars' Courts; It is hereby enacted as follows :— Preamble.

1. (*1*) This Act may be called the Mamlatdars' Courts Act, 1906. Short title.

(*2*) It shall extend to the whole of the Bombay Presidency, except the City Bombay. [2]* * Local extent.

2. The Mamlatdars' Courts Act, 1876, is hereby repealed. Repeal of Bom Act III of 1876.

3. In this Act, unless there is anything repugnant in the subject or context, Interpretation.

(*a*) the word " Mamlatdar " shall include any Revenue-officer exercising for the time being the powers of a Mamlatdar, of a Mukhtyarkar, or of a Mahalkari, and any other person who may be specially authorized by the [3][[4][State] Government] to exercise the powers of a Mamlatdar under this Act ; and

(*b*) the words " plaintiff " and " defendant " shall include

(*i*) a pleader duly appointed to act on behalf of such plaintiff or defendant, and

(*ii*) the recognized agent of a plaintiff or defendant as defined in section 37 of the [5]Code of Civil Procedure.

4. (*1*) The [3][[4][State] Government] may, by notification in the [6][*Official Gazette*], appoint in any taluka a Joint Mamlatdar under this Act who shall be invested with co-extensive powers and a concurrent jurisdiction with the Mamlatdar, except that he shall dispose of such suits only as he may receive from the Mamlatdar. Power to appoint Joint Mamlatdar.

(*2*) The Mamlatdar is hereby empowered to transfer to the Joint Mamlatdar for disposal any suit under this Act the plaint in which has been presented to the Mamlatdar under section 7, and to re-transfer to his own file any such suit, of which the Joint Mamlatdar is, owing to death, sickness or any other cause unable to dispose. Power of Mamlatdar to transfer suits to the Joint Mamlatdar.

(*3*) The [3][[4][State] Government] may delegate [7][its] powers under sub-section (*1*) to the Commissioner. Delegation of powers to Commissioner.

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* This Act was repealed and section 2 thereof was re-enacted by Bom. 42 of 1947, s. 2.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette* 1905, Pt. VII, p. 520 ; for Report of Select Committee, *see ibid.*, p 1906, Pt. VII, p. 5 ; and for Proceedings in Council, *see ibid.*, 1905, Pt. VII, p. 578 ; *ibid.*, 1906 ; Pt. VII, pp. 31 and 189.

[2] The words " and Aden " were omitted by the Adaptation of Indian Laws Order in Counci

[3] The words " Provincial Government " were substituted for the words " Governor in Council ", *ibid.*

[4] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[5] *See* now the Code of Civil Procedure, 1908 (Act 5 of 1908).

[6] The words " *Official Gazette* " were substituted for the words " *Bombay Government Gazette* " by the Adaptation of Indian Laws Order in Council.

[7] The word " its " was substituted for the word " his ", *ibid.*

Powers of Mamlatdars' Courts.

5. (*1*) Every Mamlatdar shall preside over a Court, which shall be called a Mamlatdar's Court, and which shall, subject to the provisions of sections 6 and 26, have power, within such territorial limits as may from time to time be [1][fixed by the State Government,—

(*a*) to remove or cause to be removed any impediment, erected otherwise than under due authority of law, to the natural flow in a defined channel or otherwise of any surface water naturally rising in or falling on any land used for agriculture, grazing, trees or crops, on to any adjacent land, where such impediment causes or is likely to cause damage to the land used for such purpose or to any such grazing, trees or crops thereon ;

(*b*) to give immediate possession.] of any lands or premises used for agriculture or grazing, or trees, or crops, or fisheries, or to restore the use of water from any well, tank, canal or water-course, whether natural or artificial, used for agricultural purposes to any person who has been dispossessed or deprived thereof otherwise than by due course of law, or who has become entitled to the possession or restoration thereof by reason of the determination of any tenancy or other right of any other person, not being a person who has been a former owner or part-owner, within a period of twelve years before the institution of the suit of the property or use claimed, or who is the legal representative of such former owner or part-owner :

Provided that, if in any case the Mamlatdar considers it inequitable or unduly harsh [2][to remove or cause to be removed any such impediment or], to give possession of any such property or to restore any such use to a person who has become entitled thereto merely by reason of the determination of any such tenancy or other right, or if it appears to him that such case can be more suitably dealt with by a Civil Court, he may in his discretion refuse to exercise the power aforesaid, but shall record in writing his reasons for such refusal.

Power to issue injunction.

(*2*) The said Court shall also, subject to the same provisions, have power within the said limits, [3][where any impediment referred to in sub-section (*1*) is erected, or an attempt has been made to erect it, or], when any person is otherwise than by due course of law disturbed or obstructed, or when an attempt has been made so to disturb or obstruct any person, in the possession of any lands or premises used for agriculture or grazing, or trees, or crops, or fisheries, or in the use of water from any well, tank, canal or water-course, whether natural or artificial, used for agricultural purposes, or in the use of roads or customary ways thereto, to issue an injunction to the person [4][erecting or who has attempted to erect such impediment, or] causing, or who has attempted to cause, such disturbance or obstruction, requiring him to refrain [5][from erecting or attempting to erect any such impediment or], from causing or attempting to cause any further such disturbance or obstruction.

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[1] These words, brackets and letters were substituted for the words " fixed by the State Government to give immediate possess on " by Bom. 66 of 1954, s. 2 (*1*) (*i*).

[2] These words were inserted, *ibid.*, s. 2 (*1*) (*ii*).

[3] These words, brackets and figures were inserted, *ibid*, s. 2 (*2*) (*a*).

[4] These words were inserted *ibid.*, s. 2 (*2*) (*b*).

[5] These words were inserted *ibid.*, s. 2 (*2*) (*c*).

(*2*) The Court of Wards may, with the sanction of the [1][[2][State] Government], at any time withdraw its superintendence from the person or property, or both, of a Government ward, and shall withdraw its superintendence as soon as, in the opinion of the District Court, certified to the Court of Wards,

(*a*) in the case of a person disqualified under clause (*a*) of sub-section (*1*) of section 5, he attains or has attained his majority ;

(*b*) in the case of a female disqualified under clause (*b*) of the same sub-section, she is fit to manage her own property ;

(*c*) in the case of a person disqualified under clause (*c*) of the same sub-section, he is fit to manage his own property ;

(*d*) in the case of a person disqualified under clause (*d*) of the same sub-section, he ceases to be of unsound mind and incapable of managing his affairs ; and

(*e*) where it was assumed under section 4, sub-section (*1*), in the case of a family which was undivided according to Hindu law, any co-sharer ceases to be disqualified under sub-section (*1*) of section 5 :

Provided, *firstly*, that

(*i*) where a Government ward dies or ceases to be disqualified and his property is still encumbered with debts and liabilities, the Court of Wards may, with the sanction of the [1][[2][State] Government] retain the said property under its superintendence until such debts and liabilities have been discharged ; and

(*ii*) in the case of land-holders [3][or pension-holders], [4][who are co-sharers in a family which is undivided according to Hindu law] where one or more of the proprietors of a property remain disqualified although another or others have ceased to be disqualified, the Cour of Wards may, with the sanction of the [1][[2][State] Government], retain the whole of the property under its superintendence, paying any proprietor who has ceased to be disqualified [5][from surplus income such portion as shall be proportionate to his interest in the estate] :

Provided, *secondly*, that, where the Court of Wards withdraws its superintendence, such withdrawal shall not affect any contract entered into by the Court of Wards in the lawful exercise of its powers ; and

Provided, *thirdly*, that

(*a*) no person who has once been declared disqualified under clause (*b*) or (*c*) of sub-section (*1*) of section 5, and

(*b*) except in the case of any co-sharer other than those signing an application described in section 9, sub-section (*2*), no land-holders [6][or pension-holder] who has been made a Government ward in pursuance of an order under section 9, sub-section (*1*),

shall be competent, on the withdrawal of such superintendence, to transfer or create any charge on or interest in his property or any part thereof for a period beyond the term of his natural life, except with the previous sanction of the Collector.

(*3*) No appeal shall lie from any opinion certified under sub-section (*2*).

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[1] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[3] These words were inserted by s. 4 (*2*) of the Bombay Court of Wards (Amendment) Act, 1913 (Bom. 2 of 1913).

[4] These words were substituted for the words, figures and brackets " referred to in section 8, sub-section (*2*) " by s. 2 and Sch. I, Part II, of the Bombay Repealing and Amending Act, 1910 (Bom. 1 of 1910).

[5] These words were substituted for the words " the surplus income accruing from his share of the estate ", *ibid.*

[6] These words were inserted by s. 4 (*1*) of the Bombay Court of Wards (Amendment) Act, 1913 (Bom. 2 of 1913).

Appointment of guardian in certain cases.

41. (*1*) Where, in exercise of the power conferred by section 40, the Court of Wards decides to withdraw its superintendence from the person or property, or both, of any minor, it shall, before such withdrawal, by an order in writing, appoint some person to be guardian of the person or property, or both, of the minor, and such appointment shall take effect from the date of such withdrawal.

(*2*) In appointing a guardian under this section, the Court of Wards shall be guided by the provisions of the [1]Guardians and Wards Act, 1890; and every guardian so appointed shall have, and be subject to, the same rights, duties and liabilities as if he had been appointed under that Act. VIII of 1890.

Withdrawal to be notified in *Official Gazette*.

42. Where the Court of Wards withdraws its superintendence from any person or property under this Act, the fact of such withdrawal shall be notified in the [2][*Official Gazette*] and in such other manner as the [3][[4][State] Government] may, by general or special order, direct.

Appeals.

43. (*1*) An appeal shall lie from every order, other than an order of the District Court, passed under this Act, whether original or on appeal,

(*a*) where the order is that of a [5][Collector], or of any special or other officer appointed or Board constituted, under the proviso to section 3, to the [3][[4][State] Government];

[6]* * * * * *

(*c*) in all other cases, to the Collector:

[7][Provided that where any such officer or Board has been appointed to be Court of Wards and the order has been passed by any officer subordinate to such Court of Wards for the purposes of this Act, the [3][[4][State] Government] may direct that appeals shall lie to such officer or Board.]

(*2*) The provisions of sections 205 to 210, both inclusive, of the [8]Bombay Land Revenue Code, 1879, shall apply to all such appeals. Bom. V of 1879.

Control of Provincial Government.

44. All orders or proceedings under this Act, other than orders or proceedings of the District Court, shall be subject to the supervision and control of the [3][[4][State] Government]; and the [3][[4][State] Government] may, if [9][it] thinks fit, revise, modify, or reverse any such order or proceeding, whether an appeal is presented against any such order or proceeding or not.

Power to compel attendance of witnesses.

[10][**44A.** For the purposes of this Act, the Court of Wards may summon and enforce the attendance of witnesses and compel them to give evidence, and compel the production of documents, by the same means and, as far as possible, in the same manner, as is provided in the case of a Civil Court by the Code of Civil Procedure, 1908.]

Bar of suits

45. No suit shall be brought in any Civil Court in respect of the exercise of any discretion conferred by this Act, or against the Court of Wards or any public servant or person duly appointed or authorized under this Act in respect of anything in

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[1] Central Acts.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[3] The words "Provincial Government" were substituted for the words "Governor in Council", *ibid.*

[4] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[5] This word was substituted for the word "Commissioner" by Bom. 28 of 1950, Sch.

[6] Clause (*b*) was deleted, *ibid.*

[7] This proviso was added by s. 8 of the Bombay Court of Wards (Amendment) Act, 1913 (Bom. 2 of 1913).

[8] *See supra.*

[9] The word "it" was substituted for the word "he" by the Adaptation of Indian Laws Order in Council.

[10] This section was inserted by s. 9 of the Bombay Court of Wards (Amendment) Act, 1913 (Bom. 2 of 1913).

good faith done or purporting to be done under the provisions thereof or the rules made thereunder :

Provided, *firstly*, that any person evicted under section 28 may sue for restitution ; and

Provided, *secondly*, that any tenant from whom an arrear of rent has been recovered under section 29 may sue for recovery of the amount, or any part thereof, so recovered.

Power of [2][State] Government to make rules.

46. (*1*) The [1][[2][State] Government] may, by notification published in the [3] *Official Gazette*], make rules to carry out the purposes and objects of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may

(*a*) prescribe the matters to which regard should be had in appointing or removing guardians and managers, and in fixing their remuneration ;

(*b*) regulate the form, conditions and amount of security, and the number of sureties (if any), to be given by managers ;

(*c*) prescribe the cases in which proposals or arrangements connected with the administration of the properties of Government wards shall be reported for the sanction of the [1][[2][State] Government] ;

(*d*) prescribe the accounts and other returns, and the form and other particulars thereof, which shall be rendered to the Court of Wards and by the Court of Wards to the [1][[2][State] Government] ;

(*e*) regulate the custody of securities and title-deeds belonging to the estate or property of a Government ward ;

(*f*) regulate the procedure in inquiries by, and in appeals from orders of the Court of Wards ;

(*g*) prescribe the mode in which powers delegated to managers are to be notified for the information of persons concerned ;

(*h*) prescribe the mode in which any expenses incurred by the Court of Wards or the Collector under any power conferred by this Act may be recovered ; and

(*i*) generally prescribe the manner in which the powers and duties of the Court of Wards under this Act shall be exercised and performed.

Application of Act to estates of Rulers of Indian States.

[4][**47.** The powers and functions conferred on the State Government by or under this Act shall, in relation to the estates of Rulers of Indian States, be powers and functions of the Central Government.]

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", by the Adaptation of Indian Laws Order in Council.

[4] Section 47 was inserted by the Adaptation of Laws Order, 1950.

(*3*) No suit shall be entertained by a Mamlatdar's Court unless it is brought within six months from the date on which the cause of action arose. Suits to be filed within six months.

(*4*) The cause of action shall be deemed to have arisen on the date on which the [1][impediment to the natural flow of surface water or the] dispossession, deprivation or determination, of tenancy or other right occurred, or on which the [2][impediment,] disturbance or obstruction, or the attempted [3][impediment or] disturbance or obstruction, first commenced. Cause of action.

Explanation.—The exercise by a joint owner of any right which he has over the joint property is not a dispossession, or disturbance of possession of the other joint owner or owners within the meaning of this section.

Illustration I.

A lets *B* his field to cultivate for a specific period of one or more years. *B* refuses to resign possession after the expiration of that period. *A* can sue for possession in the Mamlatdar's Court at any time within 6 months from the date of the expiration of the said period, unless *B* is a person who has been a former owner or part-owner within a period of twelve years before the institution of the suit of the property, or who is the legal representative of such former owner or part-owner.

Illustration II.

B is a yearly tenant of *A*, who gives him a notice to vacate, as he is bound to do under section 84 of the Bombay Land Revenue Code, 1879, at least three months before the end of the then current year of tenancy. At the commencement of the next year *B* refuses to vacate. *A* can sue *B* in the Mamlatdar's Court at any time within six months from the commencement of that year, unless *B* is a person who has been a former owner or part-owner within a period of twelve years before the institution of the suit of the property, or who is the legal representative of such former owner or part-owner.

Bom. V of 1879.

Illustration III.

A allows *B* the use of water from his well, or from his water-course, for a specific period, at the expiration of which *B* continues to take water from the well or water-course without *A*'s consent. *A* may sue *B* in the Mamlatdar's Court at any time within six months from the expiration of the said period to obtain an injunction to stop *B* from taking the water, unless *B* is a person who has been a former owner or part-owner within a period of twelve years before the institution of the suit of the use of the water, or who is the legal representative of such former owner or part-owner.

Illustration IV.

A and *B* hold lands adjacent to a पाट or फांस, or similar artificial water-course which has hitherto been exclusively used by *B*. *A* draws water therefrom. *B* may sue in the Mamlatdar's Court, at any time within six months from the date on which *A* commences to take the water, for an injunction to prevent *A* from so doing.

6. The Collector may, after due notice to the parties, by order in writing transfer any suit from any Mamlatdar's Court in his district to any other Mamlatdar's Court in his district, and the Mamlatdar's Court to which the suit is so transferred shall thereupon exercise jurisdiction in such suit ; but any order issued to village-officers under section 21 shall be issued by the Mamlatdar to whom such village-officers are subordinate. Power of Collector to transfer suits.

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[1] These words were inserted by Bom. 66 of 1954, s. 2 (*3*) (*a*).
[2] This word was inserted *ibid.*, s. 2 (*3*) (*b*).
[3] These words were inserted, *ibid.*, s. 2 (*3*) (*c*).

Suits commenced by plaint. Contents of plaint.

7. All suits under this Act shall be commenced by a plaint, which shall be presented to the Mamlatdar in open Court by the plaintiff, and which shall contain the following particulars :—

(*a*) the name, age, religion, caste, profession and place of abode of the plaintiff ;

(*b*) the name, age, religion, caste, profession and place of abode of the defendant ;

[(*bb*) the nature and situation of the impediment erected and the situation of the lands which are adjacent to each other, and the nature of the relief sought ;]

(*c*) the nature and situation of the property of which possession or use is sought, or the nature of the injunction to be granted, as the case may be ;

(*d*) the date on which the cause of action arose ;

(*e*) the circumstances out of which the cause of action arose ; and

(*f*) a list of the plaintiff's documents, if any, and of his witnesses, if any, showing what evidence is required from each witness, and whether such witnesses are to be summoned to attend, or whether the plaintiff will produce them on the day and at the place to be fixed under section 14.

Informal petitions to be treated as plaints.

8. Where a petition not in the form of a plaint is presented to the Mamlatdar and the subject matter thereof appears to fall within the scope of section 5, the Mamlatdar shall explain to the person presenting the petition the nature of the reliefs afforded by this Act and shall inquire whether the petitioner desires to obtain relief thereby. If the petitioner expresses a desire so to obtain relief, the Mamlatdar shall endorse the desire on the petition which shall thereupon be deemed to be a plaint presented under section 7.

Examination of plaintiff on oath.

9. Where the plaint does not contain the particulars specified in section 7 or is unnecessarily prolix, the Mamlatdar shall forthwith examine the plaintiff upon oath and ascertain from him such of the particulars specified in section 7 as are not clearly and correctly stated in the plaint and shall reduce the examination to writing in the form of an endorsement on or annexure to the plaint which shall thereupon be deemed to be part of the plaint. Where the plaintiff requires time to obtain any of the particulars specified in section 7, the Mamlatdar shall grant him such time as may under all the circumstances appear reasonable.

Plaint to be subscribed and verified.

10. When the plaint is presented, and has, if necessary, been treated in the manner specified in section 9, the Mamlatdar shall require the plaintiff to subscribe and verify the plaint in his presence, in open Court, in the manner following, or to the like effect :—

"I, *A. B.*, the plaintiff, do declare that what is stated in this plaint is true to the best of my information and belief."

Endorsement by Mamlatdar.

11. (*1*) The Mamlatdar shall endorse the plaint to the effect that it was duly subscribed and verified.

Procedure where plaintiff cannot write.

(*2*) Where the plaintiff cannot write, the verification may be written for him in open Court and he shall affix his mark to his name in token of the authenticity of the verification, and the Mamlatdar shall, in such case, record that the verification was made in his presence at the request of the plaintiff, and that his mark was so affixed.

Rejection of plaint.

12. The Mamlatdar shall reject the plaint—

(*a*) where the plaintiff declines to make a statement on oath under section 9 ; or

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[1] This clause was inserted by Bom. 66 of 1954, s. 3.

(*b*) where the plaintiff is willing to make or has made a statement on oath under section 9, but fails to furnish the particulars specified in section 7 within the time fixed under section 9 or altogether ; or

(*c*) where it appears upon the face of the plaint,

(*i*) that the property or use claimed is not one of the kind specified in section 5, or

(*ii*) that the cause of action arose more than six months before the plaint was presented ; or

(*d*) where the plaintiff declines to subscribe or verify the plaint as required by sections 10 and 11.

Return of plaint.

13. Where it appears to the Mamlatdar that the subject of the plaint is not within his jurisdiction, he shall return the plaint to be presented in the proper Court.

Procedure where plaint admissible.

14. (*1*) Where a plaint is admissible, the Mamlatdar shall receive and file it. He shall then fix a convenient day and place for the trial of the case, and shall issue, at the expense of the plaintiff, notice in the form of Schedule A to the defendant. He shall then require the plaintiff to appear with his documents, if any, and witnesses, if any, on the day and at the place fixed

(*2*) The date to be fixed for the trial of the case shall not be earlier than ten days, nor later than fifteen days, from the day on which the notice is issued, except for sufficient reason to be recorded in writing by the Mamlatdar with his own hand.

(*3*) The place to be fixed for the trial of the case may be in the Mamlatdar's office, or at or near the scene of dispute, or at any other spot that the Mamlatdar considers convenient to the parties.

Attendance of witnesses.

15. (*1*) Where either party requires any witness to be summoned to appear on the day and at the place fixed, the Mamlatdar shall issue a summons for that purpose.

(*2*) The Mamlatdar may issue, after recording his reasons in writing, a warrant for the arrrest of any such witness if at such time he fails to appear and the summons is proved to have been duly served in time to admit of his appearing in accordance therewith and no reasonable excuse is offered for such failure.

(*3*) The payment of the cost incurred in thus procuring the attendance of witnesses shall be regulated in accordance with the rules that may from time to time be in force in regard to the attendance of witnesses in Subordinate Civil Courts.

Where plaintiff makes default, plaint to be rejected with costs.

16. (*1*) Where the plaintiff fails to attend, or to produce his documents, if any, or to adopt measures to procure the attendance of his witnesses, if any, on the day and at the place fixed, the Mamlatdar shall reject the plaint with costs, whether the defendant appears or not, unless the defendant admits the claim.

Where defendant does not appear, case to be heard *exparte*.

(*2*) Where the plaintiff attends as required by section 14, sub-section (*1*), but the defendant fails to attend, and the Mamlatdar is satisfied from the evidence before him that the notice has been duly served on the defendant and in sufficient time to enable the defendant to appear and answer on the day fixed in the notice, he shall proceed to hear and decide the plaint *ex parte* :

But case may be reheard on sufficient cause being shown.

Provided, *firstly*, that if either party satisfies the Mamlatdar at any time within thirty days from the date of the rejection of a plaint under sub-section (*1*), or of an *ex parte* decision under sub-section (*2*), that he was prevented by some unavoidable circumstance from attending, or from producing his documents or from

adopting measures to procure the attendance of his witnesses, as the case may be, it shall be lawful for the Mamlatdar to issue a notice in the form of Schedule B at the expense of the applicant to the opposite party and, if still satisfied after hearing the opposite party that the applicant was prevented as alleged, to re-hear the case at such time and place as he may then fix :

or plaintiff may withdraw his suit.

Provided, *secondly*, that nothing in the foregoing provisions shall prevent the plaintiff from withdrawing his suit on payment of the defendant's costs.

When proceedings may be adjourned.

17. (*1*) Where, in the case mentioned in sub-section (*2*) of section 16, the Mamlatdar is not satisfied from the evidence before him that the notice has been duly served on the defendant, and in sufficient time to enable the defendant to appear and answer on the day fixed in the notice, he shall adjourn the trial of the case and issue a fresh notice under section 14, sub-section (*1*), to the defendant.

(*2*) Where any witness who has been duly summoned, or for whose arrest a warrant has been issued under sub-section (*2*) of section 15, fails to attend on the day and at the place fixed, the Mamlatdar may, if he considers there is sufficient reason, after taking the evidence of those present, adjourn the hearing of the suit from time to time till the attendance of such witness can be enforced.

(*3*) The Mamlatdar may, for any other sufficient reason to be recorded in writing, adjourn the trial of the case for such time as he thinks fit, but not ordinarily exceeding ten days.

(*4*) The provisions of sections 15 and 16 shall apply in respect of any day to which the trial of the case may be adjourned under this section, as if such day were the day originally fixed for the trial.

Minor may be a party.

18. (*1*) A minor may sue or be sued, if he is represented by a natural or duly appointed guardian.

Power to add parties.

(*2*) The Mamlatdar may, at any stage of the proceedings, order that the name of any person to whom possession or enjoyment of the property or use claimed, or of any part thereof, may have been transferred, or the addition of whom as a party appears necessary in order to enable the Court effectually and completely to adjudicate upon the issues, be added as a plaintiff or defendant, as the circumstances of the case may require :

Provided that no person shall be added as a plaintiff without his consent :

Provided also that in respect of any person so added, not being a transferee pending the suit, the suit shall for the purposes of section 5, sub-section (*3*), be deemed to have been instituted on the day when his name was so added.

Procedure in case of death of party.

(*3*) In case of the death of any party while the suit is pending,

(*i*) if application is made within one month of such death, the Mamlatdar shall determine summarily who is the legal representative of the deceased party and shall enter on the record the name of such representative ;

(*ii*) if no such application is made, the suit shall abate.

(*4*) Where the Mamlatdar orders the name of any person to be added as a defendant or enters on the record the name of any person as the legal representative of a deceased defendant, the Mamlatdar shall issue to such person a notice as provided in section 14 ; and the trial shall proceed on the date fixed in such notice.

Points to be decided by Mamlatdar at hearing.

19. (*1*) On the day fixed, or on any day to which the proceedings may have been adjourned, the Mamlatdar shall, subject to the provisions of section 16, proceed to hear all the evidence that is then and there before him, [1][and to try the following issues, namely :—

(*aa*) If the plaintiff avers that the natural flow of surface water from his land has been impeded by any erection raised by the defendant causing damage or likelihood of damage to the plaintiff's land or to any grazing, trees or crops thereon—

(*1*) whether surface water flowed, in a defined channel or otherwise, naturally from plaintiff's land on to defendant's land ;

(*2*) whether the defendant erected any impediment to such flow, otherwise than under due authority of law ;

(*3*) whether such erection impeded such natural flow of water within six months before the suit was filed ;

(*4*) whether such impediment has caused or is likely to cause damage to plaintiff's land or to any grazing, trees or crops thereon ;]

(*a*) If the plaintiff avers that he has been unlawfully dispossessed of any property or deprived of any use—

(*1*) whether the plaintiff or any person on his behalf or through whom he claims was in possession or enjoyment of the property or use claimed up to any time within six months before the suit was filed ;

(*2*) whether the defendant is in possession at the time of the suit, and, if so, whether he obtained possession otherwise than by due course of law ;

(*b*) if the plaintiff avers that he is entitled to possession of any property or restoration of any use by reason of the determination of any tenure or other right of the defendant in respect thereof—

(*1*) whether the defendant is in possession of the property or in the enjoyment of the use by a right derived from the plaintiff or from any person through whom he claims ;

(*2*) whether such right has determined at any time within six months before the suit was filed ;

(*3*) whether the defendant is other than a person who has been a former owner or part-owner within a period of twelve years before the institution of the suit of the property or use claimed, and other than the legal representative of such former owner or part-owner ;

(*c*) if the plaintiff avers that he is still in possession of the property or in the enjoyment of the use, but that the defendant disturbs or obstructs, or has attempted to disturb or obstruct, him in his possession or use—

(*1*) whether the plaintiff or any person in his behalf is actually in possession or enjoyment of the property or use claimed ;

(*2*) whether the defendant is disturbing or obstructing, or has attempted to disturb or obstruct, him in such possession or enjoyment ;

(*3*) whether such disturbance or obstruction, or such attempted disturbance or obstruction, first commenced within six months before the suit was filed.

Power of Mamlatdar to examine other witnesses and inspect property in dispute.

(*2*) The Mamlatdar may, after due notice to, and in the presence of, the parties, summon and examine as a witness any person who has not been summoned or produced, and may call for and cause to be proved any document which has not been applied for or produced, by either of the parties, where he considers it expedient in the interests of justice so to do, and may, if he thinks fit, make a personal inspection of the property in dispute in the presence of, or after due notice to, the parties.

[1] These words, brackets, letters, figures and punctuation marks were substituted for the original by Bom. 66 of 1954, s. 4.

[1][He shall without unnecessary delay record a memorandum after hearing the parties on the spot, if present, of any relevant facts observed at such inspection. The memorandum shall form part of the record of the case.]

Record of proceedings by Mamlatdar.

(*3*) The Mamlatdar shall with his own hand make or sign a memorandum of the substance of the evidence of each witness as the examination of the witness proceeds, and briefly record his reasons for his finding.

Orders to be passed by Mamlatdar upon decisions in favour of plaintiff and defendant.

(*4*) Where the Mamlatdar's finding upon the issues is in favour of the plaintiff, he shall make such order, not being in excess of the powers vested in him by section 5, as the circumstances of the case appear to him to require ; and where his finding is in favour of the defendant, he shall dismiss the suit. In either case the costs of the suit, including the costs of execution, shall follow the decision.

Mamlatdar's order to be endorsed on plaint and read out in open Court.

20. Every order of the Mamlatdar, whether for rejecting or returning a plaint or whether for allowing or disallowing a claim, shall be endorsed by the Mamlatdar on the plaint and shall be read out by him in open Court, either at once or on some future day of which due notice shall be given to the parties or their pleaders, and brief reasons for the order shall be placed by him on record.

Mamlatdar's decision how executed.

21. (*1*) Where the Mamlatdar's decision is for [2][removal of an impediment or for] awarding possession or restoring a use, he shall give effect thereto by issuing such orders to the village-officers, or to any subordinate under his control or otherwise, as he thinks fit :

Proviso as to growing crops.

Provided that, notwithstanding anything contained in this Act, where at the time when a decision is recorded by the Mamlatdar for [3][removal of the impediment erected on any land or for] awarding possession of any land, there is a crop on such land which has been sown by, or at the expense of, the defendant, and the Mamlatdar is satisfied that it has been so sown in good faith, the Mamlatdar may, and if the defendant makes an application for the purpose and furnishes sufficient security, or deposits in Court a sufficient sum, for the payment of the costs of the suit, shall pass an order staying delivery of possession of such land to the plaintiff seeking possession thereof, either—

(*a*) until the plaintiff agrees to take the crop at a valuation, to be made under the orders of the Mamlatdar, according to the value of the crop at such time, including any instalments of the Government assessment which the defendant may have paid for the current year ; or

(*b*) where the plaintiff is unwilling to take the crop at such valuation until after the expiration of sufficient time for the crop to be gathered by the defendant.

The amount of any valuation made under clause (*a*) of the proviso to this sub-section shall be paid to the defendant through the Mamlatdar, and shall be recoverable from the plaintiff as an arrear of land-revenue.

Mode of serving injunction.

(*2*) Where the Mamlatdar's decison is for granting an injunction, he shall cause the same to be [4][prepared in the form of Schedule BB or C, as the case may be,] and shall deliver or tender the same then and there to the defendant, if present, or if the defendant is not present, shall send it to the village-officers, or to any subordinate under his control, to be served upon the defendant.

Recovery of costs awarded.

(*3*) Where the Mamlatdar awards costs, such costs, together with the costs of execution, shall be recoverable from the party ordered to pay them as an arrear of land-revenue.

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[1] These words were added by Bom. 11 of 1928, s. 2, First Schedule.
[2] These words were inserted by Bom. 66 of 1954, s. 5 (*1*) (*a*).
[3] These words were inserted *ibid*, s. 5 (*1*) (*b*).
[4] These words and letters were substituted for the original, *ibid*, s 5. (*2*).

XLV of 1860. (*4*) Any person disobeying an injunction granted under sub-section (*2*) shall be punishable under section 188 of the [1]Indian Penal Code. Disobedience to an injunction how punishable

22. [2][Subject to the provisions of section 23, sub-section (*2*), the party in favour of whom the Mamlatdar issues an order for removal of an impediment or the party to whom the Mamlatdar gives possession or restores a use, or in whoser favour an injunction is granted, shall continue to have the surface water upon his land flow unimpeded on to adjacent land or continue in possession or use, as the case may be, until otherwise decreed or ordered, or until ousted, by a competent Civil Court]: Possession to be given without prejudice to rights of parties.

Provided, *firstly*, that nothing in this section shall prevent the party against whom the Mamlatdar's decision is passed from recovering by a suit in a competent Civil Court mesne profits for the time he has been kept out of possession of any property, or out of enjoyment of any use :

Provided, *secondly*, that in any subsequent suit or other proceeding in any Civil Court between the same parties, or other persons claiming under them the Mamlatdar's decision respecting the possession of any property or the enjoyment of any use or respecting the title to or valuation of any crop dealt with under the proviso to sub-section (*1*) of section 21, shall not be held to be conclusive.

23. (*1*) There shall be no appeal from any order passed by a Mamlatdar under this Act. Bar of appeal.

(*2*) But the Collector may call for and examine the record of any suit under this Act, and if he considers that any proceeding, finding or order in such suit is illegal or improper, may, after due notice to the parties, pass such order thereon, not inconsistent with this Act, as he thinks fit. Collector's power to revise Mamlatdar's proceedings.

[3][(*2A*) The Collector may delegate the powers conferred on him by this section to any Assistant Collector or Deputy Collector subordinate to him] ; Delegation to Collector's powers.

(*3*) Where the Collector, [4][Assistant Collector or Deputy Collector] takes any proceedings under this Act he shall be deemed to be a Court under this Act. Collector deemed to be a Court.

24. [*Powers of the Court of the Judicial Commissioner of Sind.*] *Omitted by the Adaptation of Laws Order, 1950.*

25. Any plaintiff subscribing and verifying any plaint under this Act which he either knows or believes to be false, or does not believe to be true, in any material point, shall be deemed to have committed an offence punishable under section 193 of the [1]Indian Penal Code. Punishment for verification of false plaint.

XLV of 1860.

26. No suit shall lie under this Act—

(*a*) [5][against Government or against any Government officer] in respect of any act done or purporting to be done by any such officer in his official capacity, except where acting as a manager or guardian duly constituted under any law for the time being in force ; or Bar of certain suits.

(*b*) in respect of [6][any removal of any impediment or of] any dispossession, recovery of possession or disturbance of possession, that has been the subject of previous proceedings, to which the plaintiff or his predecessor in interest was a party, under this Act, or in a Civil Court, or under Chapter XII of the Code of Criminal Procedure, 1898.

V of 1898.

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[1] Central Acts.
[2] This portion was substituted for the original by Bom. 66 of 1954, s. 6.
[3] This sub-section was inserted by Bom. 24 of 1942, s. 2 (*a*) read with Bom. 42 of 1947, s. 2.
[4] These words were inserted, *ibid*, s. 2 (*b*).
[5] These words were substituted for the words " against the Crown or against any servant of the Crown " by the Adaptation of Laws Order, 1950.
[6] These words were inserted by Bom. 66 of 1954, s. 7.

SCHEDULE A.

FORM OF NOTICE TO BE ISSUED TO THE DEFENDANT UNDER SECTION 14.

Seal of the Court.

No. OF SUIT.

In the Court of the Mamlatdar of

Plaintiff.
Defendant.

To DEFENDANT—(*name, age, religion, caste, profession and place of abode*).

WHEREAS (*here enter the name, age, religion, caste, profession and place of abode of the plaintiff*) has instituted a suit in this Court against you (*here state the particulars of the plaint*) :

You are hereby summoned to appear in this Court at the village of in person or by duly authorized agent on the day of at o'clock *m.*, to answer the above-named plaintiff ; and, as the plaint will be finally disposed of on that day, you must adopt measures to produce your documents and procure the attendance of your witnesses at the hour and place above fixed ; and you are hereby required to take notice that, in default of such appearance at the before mentioned time and place, the suit will be heard and determined in the absence of yourself and your agent.

Dated this day of 19

(*Signed*)
Mamlatdar.

Note.—If you require your witnesses to be summoned by the Court, you should make an application to that effect to the Court without delay, so as to allow of the service of the summonses a reasonable time before the within mentioned date.

SCHEDULE B.

FORM OF NOTICE TO BE ISSUED UNDER SECTION 16.

Seal of the Court.

No. OF SUIT.

In the Court of the Mamlatdar of

Plaintiff.
Defendant.

To PLAINTIFF (*or* DEFENDANT, *as the case may be*).

WHEREAS, in the suit above specified, instituted in this Court by the Court ordered on the day of last that , and the said plaintiff (*or* defendant, *as the case may be*), has

under date the day of , applied to this Court to re-hear the case on the grounds that (*here state the grounds*) :

This is to give you notice that the said application will be heard and determined on the day of at o'clock *m.*, at the village of , and you are hereby required to take notice that in default of your appearance personally or by agent at the said time and place, the application will be heard and determined in your absence and, if granted, a time and place for re-hearing the suit will then be fixed.

Dated this day of 19 .

(*Signed*)
Mamlatdar.

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[1][SCHEDULE BB.

FORM OF INJUNCTION TO BE ISSUED UNDER SECTION 21, SUB-SECTION (2).

Seal of the Court.

No. of Suit.

IN THE COURT OF THE MAMLATDAR OF

... Plaintiff ;
... Defendant.

To DEFENDANT

Whereas in the suit above specified, the Court has this day found that you have impeded (or that you have attempted to impede) the natural flow of surface water naturally rising in or falling on the plaintiff's undermentioned property by (here describe the property and the impediment erected, or attempted to be erected, found proved) ;

You are hereby prohibited from erecting or attempting to erect any impediment (if necessary set forth the particular kind of impediment which the defendant is enjoined not to erect) to the natural flow of surface water from the said plaintiff's said property on to your property otherwise than under authority of a competent Civil Court.

Dated this day of

(*Signed*)
Mamlatdar.]

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[1] Schedule BB was inserted by Bom. 66 of 1954, s. 8.

SCHEDULE C.

FORM OF INJUNCTION TO BE ISSUED UNDER SECTION 21, SUB-SECTION (2)

Seal of the Court.

No. OF SUIT.

In the Court of the Mamlatdar of

Plaintiff.
Defendant.

TO DEFENDANT

WHEREAS in the suit above specified the Court has this day found that you have disturbed or obstructed (or that you have attempted to disturb or obstruct) the said plaintiff in his possession of the under-mentioned property (*or* enjoyment of the under-mentioned use of water *or* use of roads, *or otherwise as the case may be*) by (*here describe the disturbance or obstruction or attempted disturbance or obstruction found proved*) :

You are hereby prohibited from making any further attempt to disturb or obstruct (*if necessary set forth the particular kind of disturbance or obstruction which the defendant is enjoined not to repeat*) the said plaintiff in his possession of the said property (*or otherwise as the case may be*) otherwise than in execution of the decree of a competent Civil Court.

Dated this day of 19 .

(*Signed*)
Mamlatdar.

THE PRINCE OF WALES MUSEUM ACT, 1909.

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SCHEDULE.

BOMBAY ACT No. III OF 1909.[1]

[THE PRINCE OF WALES MUSEUM ACT, 1909.]

[*19th August 1909*]

Amended by Bom. 7 of 1913 ;
" " " 6 of 1921 ;
" " " 12 of 1922 ;
" " " 7 of 1924 ;
" " " 19 of 1933.
Adapted and modified by the Adaptation of Indian Laws Order in Council.
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 24 of 1954.
" " " 44 of 1954.

An Act to provide for the erection and management of the Prince of Wales Museum of Western India.

WHEREAS it is intended to erect and maintain at Bombay a Museum as a memorial of the visit in the year 1905 of His Royal Highness the Prince of Wales to Bombay ;

AND whereas certain land has been set apart and large sums of money have been and are being subscribed for these purposes ;

AND whereas three Trustees have been provisionally appointed to take the custody of the said moneys ;

AND whereas it is expedient to make provision for the erection, maintenance and management of the Museum and for the vesting and management of the said land and moneys and for the appointment of a permanent Board of Trustees ;

It is hereby enacted as follows :—

Short title and commencement.

1. (*1*) This Act may be called the Prince of Wales Museum Act, 1909, and

(*2*) It shall come into force at once.

Property vested in the Board.

2. All the state, right, title and interest of [2][Government] together with all other estates, rights, titles and interests in and to the land specified in the Schedule to this Act and all moneys now in the custody of the three Trustees provisionally appointed to take the custody of the moneys subscribed for the purposes of erecting or maintaining at Bombay a Museum as a memorial of the visit in the year 1905 of His Royal Highness the Prince of Wales to Bombay and all the other property whether immovable or moveable, which has been or may hereafter be given, devised, bequeathed, transferred or otherwise acquired for the said purposes shall vest in the permanent Board of Trustees constituted by this Act on trust for the erection on the land specified in the said Schedule of a Museum to be called " The Prince of Wales Museum of Western India, " and for the maintenance and management of the said land and Museum.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1908, Part VII, page 171 ; for Report of Select Committee, *see ibid.*, 1909, Part VII, page 91 ; and for Proceedings in Council *see ibid*, 1909, Part VII, pages 36 and 168.

[2] This word was substituted for the words " His Majesty " by the Adaptation of Laws Order, 1950.

Constitution and powers of the Board.

3. (*1*) There shall be constituted for the purposes of this Act a permanent Board of Trustees to be called "The Trustees of the Prince of Wales Museum of Western India" and such Board (hereinafter called "the Board") shall be a body corporate with perpetual succession and a common seal, and in the name of "The Trustees of the Prince of Wales Museum of Western India" shall sue and be sued, and shall have power to [1][acquire and hold immovable or moveable property, to let on hire, lease or mortgage any immovable property vesting in them] to enter into contracts, and to do all acts necessary for and consistent with the purposes of this Act :

[2][Provided that the Board shall not have power to mortgage any land specified in the Schedule which is included within lines drawn parallel, to and at a distance of twenty feet from, above the plinths of the front corner towers of the present Museum building and extending from the Rampart Row boundary to the Esplanade Road boundary which area contains by admeasurement 14,606 square yards, be the same a little more or less, and is for greater clearness delineated on the plan referred to in section 2 of the Prince of Wales Museum (Amending) Act, 1913, or any building thereon.] Bom. VII of 1913.

(*2*) The Board shall consist of the following members, namely :—

[3][(*a*) the Director of Industries for the Presidency of Bombay ;]

(*b*) the Collector of Bombay ;

(*c*) the Principal of the Sir Jamsetjee Jeejeebhoy School of Art ;

[4][(*d*) the Superintendent, Department of Archaeology, Western Circle ;

(*dd*) the Superintendent, Department of Archaeology, South Western Circle ;]

(*e*) such two members of the Municipal Corporation of the City of Bombay as shall from time to time be elected by the said Corporation in accordance with such regulations as may from time to time be made in this behalf by the said Corporation : provided that the election shall be by [5][ballot] ;

[3][(*f*) three other persons be nominated by the [6][[7][State] Government] ;]

[8][(*g*) so long as the collection installed in the Museum by the Bombay Natural History Society remain in the Museum, two other persons to be nominated by the Managing Committee of the Bombay Natural History Society ;

(*h*) so long as the loan collection of the Bombay branch of the Royal Asiatic Society remains in the museum, one other person to be nominated by the Bombay branch of that Society] ;

[9][(*hh*) one other person elected at a joint meeting of the Trustees of the Sir Dorabji Tata Trust constituted by a trust deed dated the eleventh day of March 1932 and of the Trustees of the Sir Ratan Tata Charities constituted by the will and codicil of Sir Ratan Tata dated the twenty-first day of March 1913 and the twenty-ninth day of February 1916, respectively by a majority of votes of the Trustees present and voting at such meeting, the Chairman of such meeting having a casting vote in the case of an equality of votes ;]

(*i*) one other person to be nominated by the Syndicate of the University of Bombay ; and

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[1] These words were substituted for the words "hold and acquire property" by s. 2 (*a*) of the Prince of Wales Museum (Amendment) Act, 1921 (Bom. 6 of 1921).

[2] This proviso was added by s. 2 (*b*), *ibid.*

[3] This clause was substituted by s. 2 of the Prince of Wales Museum (Amendment) Act, 1922 (Bom. 12 of 1922).

[4] These clauses were substituted for clause (*d*) by Bom. 44 of 1954 s. 2.

[5] This word was substituted for the words "open vote, and", by s. 2 of the Prince of Wales Museum (Amendment) Act, 1922 (Bom. 12 of 1922).

[6] The words "Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[7] This word was substituted for the word "Provincial" by the Adaptation of Laws Order 1950.

[8] These clauses were inserted by s. 2 of the Prince of Wales Museum (Amendment) Act, 1922 (Bom. 12 of 1922).

[9] Clause (*hh*) was inserted by Bom. 19 of 1933, s. 2.

(*j*) four other persons to be nominated by the Board, if the Board so desire, for such period as the Board may consider desirable.]

(*3*) In the case of *ex-officio* members the person for the time being performing the duties of any of the offices mentioned in sub-section (*2*) shall act as a member.

(*4*) All acts done by a majority of the members present and voting at a meeting of the Board shall be deemed to be acts of the Board.

(*5*) No act of the Board shall be deemed to be invalid merely by reason of any vacancy in, or defect in the constitution of, the Board.

(*6*) The Board may appoint a person to act as their Secretary.

(*7*) Orders for the payment of money on behalf of the Board shall be deemed to be sufficiently authenticated if signed by two members and countersigned by the Secretary.

Term of office: election and appointment of new members if a vacancy.

[1][**3A.** (*1*) Members of the Board other than *ex-officio* members shall, save as herein otherwise provided, hold office for a period of three years.

(*2*) If a member, other than an *ex-officio* member—

(*a*) dies, or

(*b*) is absent from the meetings of the Board for more than six consecutive months, or

(*c*) leaves the Presidency of Bombay with the intention of being absent therefrom for more than six consecutive months, or

(*d*) desires to be discharged, or

(*e*) refuses to act or becomes incapable of acting,

a new member may be elected or nominated, as the case may be, in the same manner as was the member in whose place he is to be elected or nominated and he shall hold office for so long only as such member would have held it if the vacancy had not occurred.

Power of Board to lend, exchange, sell or destroy articles in collections

[1][**3B.** Subject to the provisions of any rules made by the [2][Provincial Government] in this behalf the Board may, from time to time—

(*a*) deliver by way of loan to any person the whole or any portion of, or any article contained in, any collection vested in them under this Act;

(*b*) exchange or sell articles contained in any such collection and take or purchase, in the place of such articles, such articles as may in their opinion be worthy of preservation in the Museum;

(*c*) present articles contained in any such collection to other Museums in India or elsewhere; and

(*d*) remove and destroy any article contained in any such collection:

Provided that nothing herein contained shall authorise the Trustees to lend, exchange, sell, present, remove or destroy any article when such lending, exchange, sale, presentation, removal or destruction, as the case may be, is precluded by the terms on which the Trustees may have received any such article.]

Power of Board to keep collections not belonging to them

[1][**3C.** Notwithstanding anything hereinbefore contained, the Board may, if they think fit, assume the custody and administration of collections which are not the property of the Board for the purposes of their trust under this Act and keep and preserve such collections either in the Museum or elsewhere.]

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[1] Sections 3A, 3B and 3C were inserted by s. 3 of the Prince of Wales Museum (Amendment) Act, 1922 (Bom. 12 of 1922).

[2] The words "Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

Officers and servants to be public servants.

4. All officers and servants employed by the Board shall be deemed to be public servants within the meaning of the Indian Penal Code: XLV of 1860.

Provided that this section shall not apply to persons in the service of any contractor employed by the Board.

Rules.

5. (*1*) The [1][Provincial Government] may make rules to carry out the purposes of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide—

(*a*) for the manner in which meetings of the Board shall be convened, the quorum necessary for the transaction of business, and the procedure at such meetings;

(*b*) for the appointment of committees of the Board, and the powers of expenditure and control which may be delegated to such committees;

(*c*) for the erection of the Museum on the land specified in the Schedule to this Act and for the maintenance and management of the said land and Museum, the care and custody of the objects deposited in the Museum, and the conditions under which the public shall have access to the land or Museum;

(*d*) for the maintenance, management and disposal of any other immovable property vested in the Board and for the investment and re-investment in public securities or otherwise and for the safe custody of the funds of the Board;

(*e*) for the form of accounts to be kept by the Board, and for the audit and publication of such accounts; and

(*f*) for the application to the officers and servants employed by the Board of the rules which apply to the civil servants of the Crown, or to any class of such civil servants;

[2][(*g*) for the payment of contributions at such rates and subject to such conditions as may from time to time be prescribed by the Board to any provident fund which may be established by the Board for the benefit of the officers and servants employed by it.]

Power to borrow from Central or Provincial Government or person.

[3][**6.** The Board may from time to time borrow or reborrow and take up at interest from [4][the Central or the Provincial Government] or with the previous sanction of the [1][Provincial Government] from any person any sum necessary for the purpose of defraying any costs, charges or expenses incurred or to be incurred by them to carry out the purposes of this Act, or for the purpose of repaying either in whole or part any sums hereafter borrowed or owing by the Board.

[5] * * * * * * *

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[1] The words "Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] Clause (*g*) was inserted by Bom. 7 of 1924, s. 2 (*1*). This clause shall be deemed to have had effect from such date as may be fixed by the Board in this behalf. *See* section 2 (*2*) *ibid.*

[3] Sections 6 to 17 were added by s. 3 of the Prince of Wales Museum (Amendment) Act, 1921 (Bom. 6 of 1921).

[4] The words "the Central or the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[5] The proviso to s. 6 was omitted, *ibid.*

[1][7. (*1*) The Board may borrow or reborrow any such sum as aforesaid from any person on the security of any immovable property vesting in them other than the property mentioned in the proviso to section 3 or of their revenues or of both of these securities. Mortgage of immovable property, or revenues.

(*2*) For the purpose of securing the repayment of any sum so borrowed with interest thereon they may mortgage to the person by or on behalf of whom such sum is advanced any such immovable property or revenues of both of these securities.]

[1][8. (*1*) In respect of every loan raised by the Board for a term exceeding one year, the Board shall either pay off the money borrowed by equal yearly or half-yearly instalments of principal or of principal and interest, or they shall in every year set apart as a sinking fund and accumulate in the way of compound interest by investing the same in the purchase of public securities or in such other securities as the [2][Provincial Government] may approve in this behalf such sum or sums as will, with accumulations in the way of compound interest, be sufficient after payment of all expenses to pay off the moneys so borrowed [3][within such period not exceeding sixty years from the date of the raising of the loan as the [2][Provincial Government] may in each case direct.] Provisions as to sinking funds.

(*2*) The Board may at any time apply the whole or any part of a sinking fund set apart under this section in or towards the discharge of the moneys for the repayment of which the fund has been established: Provided that they pay into the fund each time that interest would have been received by the Board in respect of the sinking fund or the part of the sinking fund so applied, and accumulate, until the whole of the moneys borrowed are discharged, a sum equivalent to the interest which would have been so received.]

[1][9. The sinking fund established for the liquidation of any loan shall be subject to annual examination by the Accountant General, Bombay, who shall ascertain whether the cash and the value of the securities at the credit of the fund are actually equal to the amount which would have been accumulated, had investments been regularly made, and had the rate of interest as originally estimated been obtained thereon. The Board shall pay forthwith into the sinking fund any amount which the Accountant General may certify to be deficient, unless the [2][Provincial Government] specially sanction a gradual re-adjustment.] Annual examination of sinking fund.

[1][10. (*1*) In respect of any sinking fund which by this Act the Board are directed or empowered to invest in public securities or in such other securities as the [2][Provincial Government] may approve in this behalf, it shall be lawful for the Board to reserve and set apart for the purposes of any such investment any debentures to be issued on account of any loan for which the sanction of the [2][Provincial Government] shall have been duly obtained, provided that the intention so to reserve and set apart such debentures shall have been notified as a condition of the issue of the loan. Issue of debentures.

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[1] Sections 6 to 17 were added by s. 3 of the Prince of Wales' Museum (Amendment) Act, 1921 (Bom. 6 of 1921).

[2] The words "Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[3] These words were substituted for the words "within the period sanctioned" by s. 5 of the Prince of Wales Museum (Amendment) Act, 1922 (Bom. 12 of 1922).

[4] Sections 6 to 17 were added by s. 3 of the Prince of Wales Museum (Amendment) Act, 1921 (Bom. 6 of 1921).

[5] The words "Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

(*2*) The issue of any such debentures direct to and in the name of "the Trustees of the Prince of Wales Museum of Western India" shall not operate to extinguish or cancel such debentures, but every debenture so issued shall be valid in all respects as if issued to, and in the name of, any other person.

(*3*) The purchase by, or the transfer, assignment or endorsement to, the Board of any debenture issued by the Board shall not operate to extinguish or cancel any such debenture, but the same shall be valid and negotiable in the same manner and to the same extent as if held by, or transferred, assigned or endorsed to, any other person.]

Form of debentures.

[1][**11.** (*1*) When money is raised by the Board on debentures the debentures shall be in such form as the Board, with the previous sanction of the [2][Provincial Government], shall from time to time determine.

(*2*) The holder of any debenture in any form duly authorised under this section may obtain in exchange therefor, upon such terms as the Board shall from time to time determine, a debenture in any other form authorised by the Board.

(*3*) Every debenture issued by the Board shall be transferable by endorsement.

(*4*) The right to payment of the moneys secured by any such debentures and to sue in respect thereof shall vest in the respective holders thereof for the time being without any preference by reason of some of such debentures being prior in date to others.]

Prohibition of endorsements on allonges.

[1][**12.** (*1*) Notwithstanding anything contained in section 15 of the [3]Negotiable Instruments Act, 1881, the holder of any debenture issued under the provisions of this Act and transferable by endorsement shall not be said to endorse the debenture, or be called the endorser thereof, if when he signs the same for the purpose of negotiation he subscribes his signature for that purpose elsewhere than on the back of the debenture itself.] XXVI of 1881.

Issue of stock certificates.

[1][**13.** (*1*) The Board may at their discretion at the time of issue or at any time during the currency of any debentures issued under the provisions of this Act, upon the application of the subscriber for, or holder of, any such debentures, issue to him, in lieu of the debentures deliverable to or held by him, a certificate in the nature of a stock certificate in respect of each loan to which such debentures relate, which shall be in such form as the Board, with the previous consent of the [2][Provincial Government], shall from time to time determine.

(*2*) The Board shall upon the application of the holder of a stock certificate convert the same into debentures of the loan to which it relates.]

Payment to survivors of joint payees.

[1][**14.** (*1*) Notwithstanding anything contained in section 45 of the [3]Indian Contract Act, 1872, when money in respect of any debenture or stock certificate issued under the provisions of this Act is payable to two or more persons jointly and either or any of them dies, the money shall be payable to the survivor or survivors of those persons. IX of 1872.

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[1] Sections 6 to 17 were added by s. 3 of the Prince of Wales Museum (Amendment) Act, 1921 (Bom. 6 of 1921).

[2] The words "Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[3] Central Acts.

(2) Nothing herein contained shall affect any claim which the representative of the deceased person may have against the survivor or survivors in respect of the money payable jointly to him or them and the deceased.]

Power of one or more joint holders to grant receipt.

[1][15. Notwithstanding anything contained in section 45 of the [2]Indian Contract Act, 1872, where two or more persons are joint holders of any debenture or stock certificate issued under the provisions of this Act, any one of those persons may give an effectual receipt for any interest or dividend payable in respect of such debenture or stock certificate, unless notice to the contrary has been given to the Board by any other of those persons.]

IX of 1872.

Notice of trust not receivable.

[1][16. No notice of any trust in respect of any debenture, or stock certificate issued by the Board shall be receivable by the Board.]

Board empowred to make rules.

[1][17. (1) The Board may from time to time make rules prescribing :—

(a) the amounts for which debentures and stock certificates may be issued ;

(b) the mode in which payment of interest in respect of all debentures and stock certificates issued under the provisions of this Act is to be made, recorded and acknowledged ;

(c) the circumstances in which such debentures and stock certificates must be renewed before further payment of interest thereon can be claimed ;

(d) the fees to be levied in respect of the issue of renewed debentures and stock certificates ;

(e) the form of transfer to be used, the formalities to be observed and the fees to be levied on a transfer of stock ;

(f) the form in which debentures and stock certificates delivered for renewal are to be receipted ;

(g) the proof to be produced by persons applying for duplicate debentures and stock certificates ;

(h) the circumstances and manner in which duplicate debentures and stock certificates may be issued in case of debentures and stock certificates alleged to have been wholly or partly lost or destroyed and the period after which interest may be paid or a duplicate be issued in case of such debentures and stock certificates and the fees to be levied in respect of the issue of duplicate debentures and stock certificates ;

(i) the nature and amount of indemnity to be given by a person applying for the payment of interest on debentures alleged to have been wholly or partly lost or destroyed, or the issue of duplicate debentures ;

(j) generally the measures to be adopted for carrying out the purposes of this Act.

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[1] Sections 6 to 17 were added by s. 3 of the Prince of Wales Museum (Amendment) Act, 1921 (Bom. 6 of 1921).

[2] Central Acts.

(*2*) (*a*) No rule, or alteration or revocation of a rule, shall have effect until the same shall have been approved by the [1][Provincial Government], and such approval shall have been published in the [2][*Official Gazette*]; and no rule, or alteration or revocation of a rule, shall be approved by the [1][Provincial Government] until the same shall have been published for three weeks successively in the said Gazette.

(*b*) It shall be lawful for the [1][Provincial Government] at any time by notification in the said Gazette to cancel any rule published under the provisions of this section.]

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*SCHEDULE.[3]

The semi-circular plot of land opposite the Sailors' Home and Elphinstone College, bounded on the north by Rampart Row, measuring 31,957 square yards or thereabouts and bearing Survey No. 8433 of the City of Bombay.

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[1] The words "Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[3] This Schedule has been amended by s. 2 of the Prince of Wales Museum (Amending) Act, 1913 (Bom. 7 of 1913).

*Some area was excluded from the area comprised in this Schedule, *ibid.*

BOMBAY ACT No. II OF 1912.[1]

[THE SOCIETIES REGISTRATION (AMENDMENT) ACT, 1912.][1]

[*29th May 1912.*]

An Act to amend the Societies Registration Act, 1860.

XXI of 1860. WHEREAS it is expedient to amend the Societies Registration Act, 1860, in manner hereinafter appearing;

AND WHEREAS the previous sanction of the Governor-General required by section 5 of the [2]Indian Councils Act, 1892, has been obtained for the passing of this Act; It is hereby enacted as follows:—

Amendment of section 14.

1. Notwithstanding anything contained in section 14 of the Societies Registration Act, 1860, hereinafter called "the said Act," it shall be lawful for the members of any society dissolved under section 13 of the said Act to determine by a majority of the votes of the members present personally or by proxy at the time of dissolution of such society that any property whatsoever remaining after the satisfaction of all its debts and liabilities shall be given to Government to be utilised for any of the purposes referred to in section 1 of the said Act.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1912, Part VII, page 101, and for Proceedings in Council, *see ibid.*, 1912, Part VII, pages 187, 255.
The short title was given by Bom. II of 1921

[2] *See* now the Government of India Act, 1935.

MG-1 Bk H 783—71*a*

THE BOMBAY RACE-COURSES LICENSING ACT, 1912.

CONTENTS.

PREAMBLE.

Sections.

1. Short title and extent.
2. Definitions.
3. Prohibition against horse-racing on unlicensed race-courses.
4. Application for licence for horse-racing.
   Grant of licence for horse-racing.
   Cancellation of licence.
5. Penalty for taking part in horse-race on unlicensed race-course.
6. Penalty for owner, etc., allowing racing in unlicensed place.
7. Penalty for contravening conditions of licence.
8. Cognizance of offences under this Act.
9. Exemptions.

BOMBAY ACT No. III OF 1912.[1]

[THE BOMBAY RACE-COURSES LICENSING ACT, 1912.]

[*6th June 1912.*]

Amended by Bom. 4 of 1931.
Adapted and modified by the Adaptation of Indian Laws Order in Council.
Amended by Bom. 10 of 1938.

An Act to provide for the licensing of race-courses in the Bombay Presidency.

WHEREAS it is expedient to make provision for the [2][regulation, control and management of horse racing and all matters directly or indirectly connected therewith] in the Bombay Presidency; It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Bombay Race-courses Licensing Act, 1912.

(*2*) This section extends to the whole of the Bombay Presidency. The rest of the Act extends only to such areas as the [3][Provincial Government] may by notification in the [4][*Official Gazette*] direct.

Definitions.

2. In this Act—

(*a*) "horse-race" means any race in which any horse, mare or gelding runs or is made to run in competition with any other horse, mare or gelding for any prize of what nature or kind soever, or for any bet or wager made or to be made in respect of any such horse, mare or gelding or the riders thereof, and at which more than twenty persons shall be present;

(*b*) "race-course" means any ground on which a horse-race can be held.

Prohibition against horse-racing on unlicensed race-courses.

3. (*1*) No horse-race shall be held save on a race-course for which a licence for horse-racing granted in accordance with the provisions of this Act is in force.

(*2*) The terms of such licence shall be published in the [4][*Official Gazette*].

Application for licence for horse-racing.

4. (*1*) The owner, lessee or occupier of any race-course may apply to the [3][Provincial Government] for a licence for horse-racing on such race-course.

Grant of licence for horse-racing.

(*2*) The [3][Provincial Government] may withhold such licence or grant it subject to such conditions and for such period as [5][it] may think fit. [6][Such conditions may provide for—

(*a*) the payment of a licence fee;

(*b*) the amount of stakes which may be allotted for different kinds of horses;

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1912, Part VII, page 131; for Report of Select Committee, *see ibid.*, 1912, Part VII, page 132; and for Proceedings in Council, *see ibid.*, 1912, Part VII, pages 221 and 471.

[2] These words were substituted for the original by Bom. 10 of 1938, s. 2.

[3] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[4] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[5] The word "it" was substituted for the word "he", *ibid.*

[6] This portion was inserted by Bom. 10 of 1938, s. 3.

(*c*) the measures to be taken for the training of persons to become jockeys; and

(*d*) such other matters, whether directly or indirectly connected with horse racing, for which, in the opinion of the Provincial Government, it is necessary or expedient to make provision in the licence.]

[1][(*3*) The [2][Provincial Government] may by such licence authorize the licensee to grant, subject to such conditions as shall be specified by the [2][Provincial Government] in such licence, a licence or permit to any bookmaker for such period not exceeding the period of the licence granted to the licensee as the licensee may think fit; and]

Cancellation of licence.

[3](*4*) The [2][Provincial Government] may at any time cancel any licence granted under this section in the event of any breach of the conditions subject to which it was granted.

Penalty for taking part in horse-race on unlicensed race-course.

5. Whoever takes part in any horse-race on any race-course for which a licence granted in accordance with the provisions of section 4 is not in force shall be punishable with fine which may amount to two hundred rupees.

Penalty for owner, etc., allowing racing in unlicensed place.

6. If any horse-race is held on any race-course for which a licence granted in accordance with the provisions of section 4 is not in force, any person being the owner, lessee or occupier of such race-course shall be punishable with fine which may amount to one thousand rupees.

Penalty for contravening conditions of licence.

[4]**7.** (*1*) If any person to whom a licence has been granted in accordance with the provisions of section 4 contravenes any of the conditions subject to which such licence was granted, such person shall be punishable with fine which may amount to one thousand rupees.

[5][(*2*) If any person to whom a licence or permit has been granted by a licensee in pursuance of the provisions of sub-section (*3*) of section 4 contravenes any of the conditions subject to which such licence or permit was granted he shall be punishable with fine which may extend to one thousand rupees.]

Cognizance of offences under this Act.

8. No Court inferior to that of a Presidency Magistrate or of a Magistrate of the First Class shall try an offence under this Act.

Exemptions.

9. The [2][Provincial Government] may from time to time by general or particular order published in the [6][*Official Gazette*] exempt any horse-race from the operation of this Act.

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[1] This sub-section and the word "and" were inserted by Bom. 4 of 1931, s. 9 (*a*) (*i*).

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[3] Sub-section (*3*) was renumbered sub-section (*4*), by Bom. 4 of 1931, *ibid.*, s. 9 (*a*) (*ii*).

[4] Section 7 was renumbered 7 (*1*), *ibid.*, s. 9 (*b*).

[5] Sub-section (*2*) was inserted, *ibid.*

[6] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

THE BOMBAY MEDICAL ACT, 1912.

CONTENTS.

SECTIONS.

1. Short title, extent and definition.
2. Bombay Medical Council.
3. Tenure of office
4. Time and place of meeting of Council.
5. Registrar and officers.
6. Register.
7. Persons entitled to be registered.
8. Appeals and erasure of incorrect entries.
9. Removal of medical practitioners' name from register for misconduct.
9AA. Medical Council to have powers of Civil Courts.
9BB. Inquiries to be deemed to be judicial proceedings.
9CC. Assessor to Medical Council.
9A. [Repealed]
10. Qualified practitioners : certificates.
11. Unregistered persons not to hold certain appointments.
12. Notice of death.
13. Medical Council authorized to call for information and attend examinations.
14. Exemption from serving on inquests.
15. Fees payable to members.
16. Disposal of fees.
17. Publication of Medical List.
17A. Elections to be held by distributive vote.
18. Penalties.
19. Rules and regulations.
20. Alteration in list of qualifications mentioned in the Schedule.
21. Control.
22. Saving for provisions of the Government of India Act, 1935.

THE SCHEDULE.

BOMBAY ACT No. VI OF 1912.[1]

[THE BOMBAY MEDICAL ACT, 1912.]

[*25th June 1912*:]

Amended by Bom. 9 of 1912;
,, ,, ,, 4 of 1918;
,, ,, ,, 12 of 1929.
Repealed in part and amended by Bom. 3 of 1916;
,, ,, ,, ,, ,, ,, ,, 4 of 1916.
Adapted and modified by the Adaptation of Indian Laws Order in Council.
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 55 of 1950;
,, ,, ,, 23 of 1953;
,, ,, ,, 63 of 1954;
,, ,, ,, 2 of 1955

An Act for the registration of medical practitioners.

WHEREAS it is expedient to provide for the registration of medical practitioners in the Presidency of Bombay; And whereas the previous sanction of the Governor-General required by section 5 of the Indian Councils Act, 1892,[2] has been obtained for the passing of this Act; It is hereby enacted as follows :—

Short title and extent.]

1. (*1*) This Act may be called the Bombay Medical Act, 1912.
(*2*) It extends to the whole of the Bombay Presidency.
[4]* * * *

Bombay Medical Council.

[5][2. (*1*) A Council, herein referred to as "the Medical Council", which shall be called "the Bombay Medical Council", shall be established for the Presidency of Bombay.

[6][(*2*) The Medical Council shall consist of fourteen members who shall be appointed in the following manner, namely :—

(*a*) five members nominated by the State Government out of whom not more than one shall be from amongst those who are not registered under this Act;

(*b*) three members elected by—

(*i*) the members of Faculties of Medicine of the Universities established by any law for the time being in force in the State of Bombay, and

(*ii*) the members of the Governing Body of the College of Physicians and Surgeons, Bombay:

Provided that no person who is a member of two or more such Faculties or of any such Faculty and the said Governing Body shall be entitled to vote more than once;

(*c*) six members elected by the medical practitioners who are registered under this Act.]

[7][(*3*) The President [8][and Vice-President] of the Medical Council shall be elected by the members from amongst themselves.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1911, Part VII, page 389; for Report of Select Committee, *see ibid.*, 1912, Part VII, page 103; and for Proceedings in Council, *see ibid.*, 1912, Part VII, page 45 and 189.

[2] *See* now the Government of India Act, 1935.

[3] These words were substituted for the words "extent and definition" by Bom. 55 of 1950, s. 2.

[4] Sub-section (*3*) was deleted, *ibid.*

[5] Section 2 was substituted by s. 2 of the Bombay Medical (Amendment) Act, 1918 (Bom. 4 of 1918).

[6] Sub-section (*2*) was substituted for the original by Bom. 55 of 1950, s. 3.

[7] These sub-sections were substituted for sub-section (*2*), *ibid.*

[8] These words, were inserted by Bom. 2 of 1955, s. 3, Second Schedule.

(*4*) The election of [1][the President and Vice-President and other members] shall, subject to the provisions of this Act, be held at such time and place and in such manner as the Medical Council may, by rules or regulations made from time to time in this behalf, direct.]

Tenure of office.

3. [2][(*1*) [3][The President, Vice-President and other members] of the Medical Council shall hold office for a term of five years from the date of their nomination or election or until their successors have been duly nominated or elected, whichever is longer, and shall be eligible for re-nomination, or re-election, as the case may be.]

(*2*) Any member may at any time resign his appointment by letter addressed to the President of the Medical Council.

(*3*) Upon the death or resignation of any member of the Medical Council, some other person shall be appointed a member of the Medical Council in his place by nomination or election, as the case may be, in accordance with the provisions of sub-section (*2*) of section 2, and such person shall hold office for the remainder of the period for which the member in whose place he is appointed was nominated or elected.

(*4*) (*a*) Leave of absence [4]* * may be granted by the Medical Council to any member thereof for a period not exceeding six months.

[5]* * * * * *

(*c*) [6][Except in the case provided for in clause (*a*),] if any member of the Medical Council shall absent himself from three consecutive [7][ordinary] meetings of the Medical Council, the Medical Council may forthwith declare his seat vacant and such declaration shall have the same effect as resignation of his seat by the member concerned.

Time and place of meeting of Council.

4. The Medical Council [8]* * * shall make such rules and regulations as may be necessary with respect to the times and places of the meeting of the Medical Council, and the mode of summoning the same. In the absence of any rule or regulation as to the summoning of a meeting of the Medical Council, it shall be lawful for the President to summon a meeting at such time and place as to him shall seem expedient by letter addressed to each member ; and at every meeting, in the absence of the President [9][the Vice-President and in the absence of both], some other member, to be chosen from the members present, shall act as President ; and all acts of the Medical Council shall be decided by the votes of the majority of the members present at any meeting, the whole number present not being less than eight, and at all such meetings the President for the time being shall, in addition to his vote as a member of the Medical Council, have a casting vote in case of any equality of votes.

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[1] These words were substituted for the words " the President and members" by Bom.2 of 1955, s. 3 Second Schedule.

[2] This sub-section was substituted for the original, by Bom. 55 of 1950 s. 4.

[3] These words were substituted for the words " The President and members " by Bom. 2 of 1955, s. 3, Second Schedule.

[4] The words " from India " were deleted by Bom. 55 of 1950, s. 4(*2*).

[5] Clause (*b*) was deleted, *ibid.*

[6] This portion was substituted for the original portion, " In any case not provided for in clauses (*a*) and (*b*)," *ibid.*

[7] This word was inserted. *ibid.*

[8] The words " shall hold their first meeting within three months from the commencement of this Act in such place and at such time as the Government in Council shall appoint and were" repealed by s. 3 and Schedule of the Bombay Medical (Amendment) Act, 1916 (Bom. 4 of 1916).

[9] These words were inserted by Bom. 2 of 1955, s. 3 Second Schedule.

Registrar and Officers.

5. (*1*) The Medical Council shall appoint a Registrar, and may from time to time grant leave to the Registrar and appoint a person to act in his place. Any order of the Medical Council appointing [1]* * * or dismissing a Registrar or appointing a person to act as Registrar [2][for a period which exceeds or is likely to exceed the period which the State Government may, from time to time, direct] shall be subject to the previous approval of the [3][[4][State] Government]. The Registrar and any person appointed to act as Registrar shall be paid by the Medical Council such salary and allowances as they may from time to time determine. Any person duly appointed to act as Registrar shall be deemed to be Registrar for all the purposes of this Act.

(*2*) The Medical Council with the previous approval of the [3][[4][State] Government] may appoint such other officers or clerks as may be necessary for the purposes of this Act.

(*3*) The Registrar and any other officer or clerk appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the [5]Indian Penal Code. XLV of 1860.

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[1] The words "granting leave to" were deleted by Bom. 55 of 1950, s. 5(*1*).
[2] This portion was inserted, *ibid*, s. 5(*2*).
[3] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.
[4] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[5] Central Act.

Register.

6. The Registrar shall keep a register of medical practitioners in accordance with the provisions of this Act. The register shall be kept in such form as the [1][[2][State] Government] from time to time directs. The name, residence and qualifications of every person who is registered under this Act shall be entered in the register with the date on which each qualification was granted. It shall be the duty of the Registrar under the orders of the Medical Council to keep the register correct and from time to time to enter any necessary alterations in the addresses of persons registered, and to enter any additional qualifications which any registered person may have obtained subsequent to his registration, and to erase the names of all registered persons who have died ; provided that the [1][[2][State] Government] may prescribe a fee for the entry of any additional qualification. [3]* * * * * * *

Persons entitled to be registered.

[4][**7.** [5][(*1*) (*a*) Every person shall, if he holds any of the medical qualifications included in the First, or Second Schedule to the Indian Medical Council Act, 1933, be entitled to be registered under this Act, on payment of a fee of [6][fifty rupees] on giving a correct description of his qualifications, with the dates on which they were granted, and on presentation of his degree, diploma or licence.

XXVII of 1933.

(*b*) No person who possesses a medical qualification granted by any authority in any place outside the territory of India other than those specified in the Second Schedule to the said Act shall be registered under this Act, unless the procedure specified in clause (*c*) has been followed.

(*c*) The Medical Council shall forward to the Executive Committee constituted under section 9 of the Indian Medical Council Act, 1933, an application for registration received by it from any medical practitioner [7]* * * * * *

XXVII of 1933.

but who does not possess any of the medical qualifications granted by a medical institution specified in the said Second Schedule to the said Act. If the said Committee is satisfied that the degree, diploma, licence or certificate held by the applicant is such as to secure the possession by the applicant of requisite knowledge and skill for the efficient practice of medicine surgery or midwifery, [8][it may,—

(*a*) if the applicant is a citizen of India, recommend that such person should be registered, and

(*b*) if the applicant is not a citizen of India, recommend that such person should be registered on such conditions as may be specified in the recommedation,

and the Medical Council shall accordingly register him].

[9][(*1-a*) Every person for the time being registered under any Act for the registration of medical practitioners in force in any other province in India with the Medical Council of such province shall, if reciprocity of registration has been arranged with such Council be entitled on production of his registration certificate [10][and on payment of a fee of [11][fifty rupees] to have registered under this Act, [12]* *such qualifications entered in the said certificate as are registrable under this Act.]

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[1] The words " Provincial Government " were susbstituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[3] The portion beginning with the words " To enable the Registrar duly to fulfill the duties " and ending with the words " make an order to that effect " was deleted by Bom. 63 of 1954, s. 2.

[4] Section 7 was substituted by s. 3 of the Bombay Medical Amendments Act, 1916, Bom. 3 of 1916.

[5] Sub-section (*1*) was substituted for the original by Bom. 55 of 1950, s. 6 (*1*).

[6] These words were substituted for the words " fifteen rupees " by Bom. 63 of 1954, s. 3 (*1*) (*a*).

[7] The words " who is a citizen of India " were deleted, *ibid.*, s. 3 (*1*) (*b*) (*i*).

[8] This portion was substituted for the words " it may recommend that the person should be registered and the Medical Council shall accordingly register from ". *ibid.*, s. 3 (*1*) (*b*) (*ii*).

[9] Sub-section (*1-a*) was inserted by Bom. 12 of 1929, s. 2.

[10] These words were inserted by Bom. 55 of 1950, s. 6 (*2*).

[11] These words were substituted for the words " fifteen rupees " by Bom. 63 of 1954, s. 3 (*2*).

[12] The words " free of charge " were deleted, *ibid.*

(*2*) Every person who is possessed of any of the qualifications described in the Schedule to this Act (subject to the provisions of section 20) shall be entitled to be registered under this Act on payment of a fee of [1][fifty rupees] and on giving evidence to the satisfaction of the Registrar of his possession of a qualification fitting him for registration.

(*3*) The [2][[3][State] Government] may, after consulting the Medical Council permit the registration of any person who was actually practising medicine in the Bombay Presidency before the 25th day of June 1912.

(*4*) The Medical Council may refuse to permit the registration of any person who has been convicted of a cognisable offence as defined in the [4][Code of Criminal Procedure, 1898, or who, being or having been subject to military law, has been convicted under the [5]Army Act or under the [5]Indian Army Act, 1911, of an offence which is also a cognizable offence as so defined, or who after due enquiry has been held guilty by the Medical Council of infamous conduct in any professional respect.] V of 1898. 44 & 45 Vict., c. 58. VIII of 1911.

Appeals and incorrect entries.

8. (*1*) Any appeal against the decision of the Registrar respecting a first registration or any subsequent alteration shall be heard and determined by the Medical Council under regulations which shall be made by the Medical Council in this behalf.

(*2*) Any entry in the register which shall be proved to the satisfaction of the Medical Council to have been fraudulently or incorrectly made may be erased from the register under the orders of the Medical Council.

Removal of medical practitioner's name from register for misconduct.

[6][**9.** (*1*) If a medical practitioner has been after due inquiry by the Medical Council found guilty of any misconduct, the Medical Council may—

[7][(*a*) issue a letter of warning addressed to such medical practitioner, or

(*b*) direct the name of such medical practitioner—

(*i*) to be removed from the register for such period as may be specified in the direction, or

(*ii*) to be removed from the register entirely.]

Explanation.—For the purposes of this section, "misconduct" shall mean—

(*a*) the conviction of the medical practitioner by a criminal court for an offence which involves moral turpitude and which is cognizable within the meaning of the Code of Criminal Procedure, 1898; V of 898.

(*b*) the conviction under the Army Act, 1950, of the medical practitioner subject to military law for an offence which is cognizable within the meaning of the Code of Criminal Procedure, 1898; or XLVI of 1950. V of 1898

(*c*) any conduct which, in the opinion of the Medical Council, is infamous in relation to the medical profession.

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[1] These words were substituted for the words "fifteen rupees" by Bom. 63 of 1954, s. 3 (2).

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[4] Central Acts.

[5] Collection of Statutes relating to India, Vol. I.

[6] Section 9 was substituted for the original by Bom. 55 of 1950, s. 7.

[7] This portion was substituted for the brackets, letters and words beginning with "(*a*) direct the name" and ending with "misconduct of which he was found guilty" by Bom. 63 of 1954, s. 4.

(*2*) The Medical Council may, at any subsequent date, if they think fit, direct that any name so removed shall be re-entered.]

[1][**9-AA.** In holding inquiries under this Act, the Medical Council shall have the same powers as are vested in Civil Courts under the Code of Civil Procedure, 1908, when trying a suit, in respect of the following matters, namely :— Medical Council to have powers of Civil Courts.

V of 1908.

(*a*) enforcing the attendance of any person and examining him on oath ;

(*b*) compelling the production of documents ;

(*c*) issuing of commissions for the examination of witnesses.

XLV of 1860.

9-BB. All inquiries under this Act shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code. Inquiries to be deemed to be judicial proceedings.

9-CC. (*1*) For the purpose of advising the Medical Council on questions of law arising in inquiries before it, there shall in all such inquiries be an assessor to the Medical Council who has been for not less than ten years— Assessor to Medical Council.

XXXVIII of 1926.

(*i*) an advocate enrolled under the Indian Bar Councils Act, 1926, or

(*ii*) an attorney of a High Court.

(*2*) Where an assessor advises the Medical Council on any question of law as to evidence, procedure or any other matter, he shall do so in the presence of every party, or person representing a party, to the inquiries who appears thereat, or if the advice is tendered after the Medical Council has begun to deliberate as to their findings, every such party or person as aforesaid shall be informed what advice the assessor has tendered. Such party or person shall also be informed, if in any case the Medical Council does not accept the advice of the assessor on any such question as aforesaid.

(*3*) Any assessor under this section may be appointed either generally or for any particular inquiries or class of inquiries and shall be paid such remuneration as the Medical Council with the approval of the State Government may determine.

9-DD. Notwithstanding anything contained in section 7 or 17— Renewal of registration.

(*a*) the Registrar shall every five years cause two notices to be published at an interval of not less than thirty days in the *Official Gazette* calling upon in the manner provided in clause (*b*) all registered medical practitioners to make an application to the Registrar for the continuance of their names on the register ;

(*b*) the Registrar shall, after the publication of the first notice under clause (*a*) send a notice by post enclosing therewith the form of application prescribed by rules made under this Act to registered medical practitioners at their addresses as entered in the register calling upon them to return the application to the Registrar for the continuance of their names on the register within 45 days of the date of the notice. If any of the registered medical practitioners fails to return such application within the time specified, the Registrar shall issue a further notice to such registered medical

[1] Sections 9-AA to 9-DD were inserted by Bom. 63 of 1954, s. 5.

practitioner by registered post after the publication of the second notice under clause (*a*) enclosing therewith the form of application prescribed by rules made under this Act calling upon him to return the application to the Registrar for the continuance of his name on the register within thirty days of the date of the notice together with a fee of rupees two ;

(*c*) if the application is not made on or before the date fixed by the notice sent by registered post under clause (*b*), the Registrar shall remove the name of the defaulter from the register :

Provided that if an application for continuance of the name so removed is made within a period of six months from the date fixed by the notice sent by registered post under clause (*b*) the name so removed may be re-entered in the register on payment of a fee of five rupees.]

Renewal fee.

[1][**9A.** [*Renewal fee.*] Repealed by Bom. II of 1955, s. 2, First Schedule.]

Qualified practitioners : certificate.

10. (*1*) [2]* * * The expression "legally qualified medical practitioner", or "duly qualified medical practitioner," or any words importing a person recognized by law as a medical practitioner or member of the medical profession, shall in all [3][Bombay Acts] and in all [4][Central Acts] in their application to the Bombay Presidency, mean a medical practitioner registered [5]* * * under this Act [6][or under the Bombay Medical Practitioners' Act, 1938].

(*2*) [2]* * * No certificate required by any Act from any medical practitioner or medical officer shall be valid unless the person signing the same shall have been registered [7]* * * * under this Act [7][or under the Bombay Medical Practitioners' Act, 1938].

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[1] This section was inserted by Bom. 55 of 1950, s. 8.

[2] The words "After the commencement of this Act" were repealed by s. 3 and Schedule of the Bombay Medical (Amendment) Act, 1916 (Bom. 4 of 1916).

[3] The words "Bombay Acts" were substituted for the words "Acts of the Governor of Bombay in Council" by the Adaptation of Indian Laws Order in Council.

[4] The words "Central Acts" were substituted for the words "Acts of the Governor-General in Council" *ibid.*

[5] The words "either under the Medical Acts or" were deleted by Bom. 55 of 1950, s. 9.

[6] This portion was added, *ibid.*

[7] The words "under the Medical Acts or" were deleted, *ibid.*

Unregistered persons not to hold certain appointments.

11. [1]* * * [2][Except with the special sanction of the [3][[4][State] Government]] no person shall hold any appointment as a Physician, Surgeon or other Medical Officer in any dispensary, hospital, infirmary or lying-in-hospital, not supported entirely by voluntary contributions, or in any public establishment, body or institution, or as a Medical Officer of Health, unless he be registered [5]* * * * * under this Act [6][or under the Bombay Medical Practitioners' Act, 1938].

Notice of death.

12. Every Registrar of deaths on receiving notice of the death of a medical practitioner registered under this Act shall forthwith transmit by post to the Registrar appointed under this Act a certificate under his own hand of such death with the particulars of time and place of death and may charge the cost of such certificate and transmission as an expense of his office.

Medical Council authorised to call for information and attend examinations.

13. The Medical Council shall have authority to call on the governing body or authorities of any Medical College or School and on any examining body included in or desirous of being included in the Schedule—

(*a*) to furnish such particulars as the Medical Council shall require of any course of study prescribed or examination held by such body or authority or in such School or College with reference to the grant of any medical or surgical qualification, and

[7][(*b*) to permit such person or persons as is or are, in the opinion of the Medical Council, specially qualified for the purpose, to attend and be present at any such examination.]

Exemption from serving on inquests.

14. Notwithstanding any thing in any other law for the time being in force, every person who shall be registered under this Act shall be exempt, if he so desires, from serving on any inquest.

Fees payable to members.

15. There shall be paid to the members of the Medical Council such fees for attendance and such reasonable travelling expenses as shall from time to time be allowed by the Medical Council and approved by the [3][[4][State] Government].

Disposal of fees.

16. All monies received by the Medical Council as fees under this Act shall be applied for the purposes of this Act in accordance with such rules as may be made in this behalf by the [3][[4][State] Government].

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[1] The words " On the expiry of three months from the commencement of this Act " were repealed by s. 3 and Schedule of the Bombay Medical (Amendment) Act, 1916 (Bom. 4 of 1916).

[2] These words were inserted by s. 2, *ibid.*

[3] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of India Laws Order in Council.

[4] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[5] The words " under the Medical Acts or " were deleted by Bom. 55 of 1950, s. 10.

[6] This portion was added, *ibid.*, s. 10.

[7] Clause (*b*) was substituted for the original by Bom. 23 of 1953, s. 2.

Publication of Medical List.

[1][17. (*1*) The Registrar shall every five years [2]* * * * * * * * cause to be printed and published a correct list of the names, addresses and qualifications of all persons for the time being entered in the Register and the dates when such qualifications were granted, in alphabetical order according to the surnames of the persons registered.

(*2*) The Registrar shall cause to be printed and published annually on or before a date to be fixed by the Medical Council—

(*a*) a supplementary list arranged in the manner specified in sub-section (*1*), of the names, addresses, dates of registration and qualifications together with the dates of acquiring them of all persons for the time being entered or re-entered in the register and not included in any subsisting list or supplementary list already printed and published; and

(*b*) a separate list arranged in the same manner and giving the same particulars of persons included in any subsisting list or supplementary list whose names have since been erased or removed from and not re-entered in the Register; and

(*c*) if during any year a medical practitioner included in any subsisting list or supplementary list has communicated a change of address, a further list arranged in the same manner of the medical practitioner who has so communicated the change of address.

[3][(*3*) A copy of the list referred to in sub-section (*1*) and of the supplementary list referred to in clause (*a*) of sub-section (*2*) shall be evidence in all Courts and in all judicial or quasi-judicial proceedings that the persons therein specified are registered according to the provisions of this Act; and the absence of the name of any person from such copy shall be evidence, until the contrary is proved, that such person is not registered according to the provisions of this Act:

Provided that in the case of any person whose name does not appear in such copy, a certified copy under the hand of the Registrar of the entry of the name of such person on the register shall be evidence that such person is registered under the provisions of this Act.]

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[1] This section was substituted for the original by Bom. 55 of 1950, s. 11.

[2] The words " on or before a date to be fixed by the Medical Council " were deleted by Bom. 63 of 1954, s. 6 (*a*).

[3] This sub-section was substituted for the original *ibid.*, s. 6 (*b*).

[1][**17A.** All elections under this Act shall be made according to the distributive system of voting. **Elections to be held by distributive vote.**

Explanation.—The distributive system of voting means a system of voting in which every voter shall be entitled to give as many votes as there are seats to be filled :

Provided that no voter shall give more than one vote to any one candidate :

Provided further that no voting papers shall be deemed to be valid unless the voter has recorded all the votes which he is entitled to give.]

18. Whoever falsely pretends to be registered under this Act or not being registered under this Act uses in connection with his name or title any words or letters representing that he is so registered shall, whether any person is actually deceived by such pretence or representation or not, be punished on conviction by a Presidency Magistrate or a Magistrate of the first class with fine that may extend to three hundred rupees. **Penalties.**

19. (*1*) Subject to the provisions of this Act, the Medical Council may from time to time make rules and regulations generally to carry out the provisions of this Act : **Rules and regulations.**

Provided that no rules or regulations made by the Medical Council whether under this or under any of the foregoing sections of this Act shall have any force or effect unless the same shall have received the previous approval of the [2][[3][State] Government].

(*2*) All rules and regulations made by the Medical Council under this Act shall, when the same have received the approval of the [2][[3][State] Government], be published in the [4][*Official Gazette*].

(*3*) It shall be lawful for the [2][[3][State] Government], by notification in the [4][*Official Gazette*], to cancel any rule or regulation made under this Act.

20. If it shall appear to the [2][[3][State] Government], on the report of the Medical Council or otherwise, that the course of study and examinations prescribed by any of the Colleges or bodies conferring the qualifications described in the Schedule are not such as to secure the possession by persons obtaining such qualification of the requisite knowledge and skill for the efficient practice of their profession, or if it shall appear to the [2][[3][State] Government], on the report of the Medical Council or otherwise, that the course of study and examinations prescribed by any College or body conferring a qualification not entered in the Schedule are such as to secure the possession by persons obtaining such qualification of the requisite knowledge and skill for the efficient practice of their profession, it shall be lawful for the [2][[3][State] Government] from time to time by notification in the [4][*Official Gazette*] to direct that the possession of any qualification **Alteration in list of qualifications mentioned in the Schedule.**

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[1] Section 17A was inserted by Bom. 55 of 1950, s.12.

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[4] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

entered in the Schedule shall not entitle any person to registration under this Act, or to direct that the possession of any qualification not entered in the Schedule shall, subject to the provisions of this Act, entitle a person to be so registered, as the case may be, and the Schedule shall thereupon be deemed for all purposes to be altered accordingly.

Control.

21. If at any time it shall appear to the [1][[2]State] Government] that the Medical Council has failed to exercise or has exceeded or abused any power conferred upon it under this Act or has failed to perform any duty imposed upon it by this Act, the [1][[2]State] Government] may notify the particulars of such default, excess or abuse to the Medical Council ; and if the Medical Council fails to remedy such default, excess or abuse within such time as may be fixed by the [1][[2]State] Government] in this behalf, the [1][[2]State] Government] may for the purpose of remedying such default, excess or abuse cause any of the powers and duties of the Medical Council to be exercised and performed by such agency and for such period as [3][it] may think fit.

22. [*Saving for provisions of the Government of India Act, 1935.*] *Omitted by the Adaptation of Laws Order, 1950.*]

THE SCHEDULE.

[4][1. Fellow, Member (Admitted before 30th April 1944), and Licentiate of the College of Physicians and Surgeons of Bombay.

2. Licentiate of the State Medical Faculty, Bombay.

3. Ayurvidya Visharad of the Tilak Maharashtra Vidyapeeth of Poona, during the years 1921 to 1935 (both inclusive).

4. Bachelor of Medicine and Bachelor of Surgery of the University of Gujarat.

5. Bachelor of Medicine and Bachelor of Surgery of the University of Poona.

6. Fellow, Member and Licentiate of the State Medical Faculty of Bengal prior to 15th August 1947.

7. Fellow, Member and Licentiate of the State Medical Faculty of West Bengal on or after 15th August 1947.

8. Fellow, Member and Licentiate of the State Medical Faculty of Punjab prior to 15th August 1947.

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[1] The words " Provincial Government "were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[3] The word " it " was substituted for the word " he " by the Adaptation of Indian Laws Order in Council.

[4] Entries 1 to 24 were substituted for the original by G. N., L. S. G. & P. H. D., No. 4867, dated 7th October 1952.

9. Fellow and Member of the State Medical Faculty, East Punjab.

10. Diploma of Licentiate of the State Medical Faculty of East Punjab conferred upon persons who entered the course for the diploma prior to the year 1950.

11. Licentiate and Apothecary of the Board of Examiners, Medical College, Madras.

12. Licentiate of the State Board of Medical Examinations, United Provinces.

13. Diploma in Medicine and Surgery [" D.M.S.(Madras) "] of the Stanley Medical College, Madras.

14. Fellow, Member and Licentiate of the United Provinces, State Medical Faculty.

15. Licentiate of the Bihar and Orissa Medical Examination Board.

16. Licentiate of the Central Provinces (now Madhya Pradesh) Medical Examination Board.

17. Licentiate of the Assam Medical Examination Board.

18. Diploma in Allopathy (1) of the National Medical College and the National College of Physicians and Surgeons of India, Calcutta, (2) of the Collge of Physicians and Surgeons of Calcutta, and (3) of the International College of Physicians and Surgeons of India, Calcutta, during the years 1912 to 1916 (both inclusive).

19. Licensed Medical Practitioner of the University of Mysore and of the Mysore Medical School.

20. Bachelor of Medicine and Bachelor of Surgery of the University of Mysore.

21. Bachelor of Medicine and Bachelor of Surgery of the Osmania University and Licentiate of Medicine and Surgery granted by His Exalted Highness the Nizam's Government.

22. Diploma of L. M. P. (Hyderabad) granted by His Exalted Highness the Nizam's Government in or before the year 1932.

23. Diploma of L. M. P. (Orissa) conferred by the Orissa Medical Examination Board upon persons who entered the course for the diploma prior to the year 1948.

24. Any person trained in a Government Medical College, or School in India who holds a diploma or certificate granted by any Government in India directing him to be qualified to practise Medicine, Surgery and Midwifery, or to be qualified for the duties of a Military Assistant Surgeon, Hospital Assistant or Sub-Assistant Surgeon, or any person who holds a diploma or certificate to the same effect, granted by the King Edward Hospital Medical School at Indore or the Medical School, Hyderabad (Deccan).

[This paragraph is subject to the provisions of the Indian Medical Degrees Act, 1916 (VII of 1916)].].

MG-VI Bk H 471—4a

THE BOMBAY SMOKE-NUISANCES ACT, 1912.

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BOMBAY ACT No. VII OF 1912.[1]

[THE BOMBAY SMOKE-NUISANCES ACT, 1912.]

[*27th June 1912*]

Repealed in part by Act 8 of 1920.
Amended by Bom. 10 of 1924;
" " " 10 of 1929;
" " " 8 of 1935;
Adapted and modified by the Adaptation of Indian Laws Order in Council.
*Amended by Bom. 17 of 1945.
" " " 39 of 1951.
" " " 55 of 1953.

An Act for the abatement of nuisances arising from the smoke of furnaces in the [2][Greater Bombay] and to provide for the extension thereof to other areas in the Bombay Presidency.

WHEREAS it is expedient to enact a law for the abatement of nuisances arising from the smoke of furnaces in the [2][Greater Bombay] and to provide for the extension thereof to other areas in the Bombay Presidency; It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Bombay Smoke-nuisances Act, 1912.

(*2*) It extends in the first instance to [3][the Greater Bombay].

Power further to extend Act.

2. (*1*) [4][The [5][State] Government] may, by notification published in the [6][*Official Gazette*] and in such other manner as [4][the [5][State Government] may determine, declare its intention to extend this Act to any specified area in the Bombay Presidency other than the [2][Greater Bombay]:

Provided that if a military Cantonment is situated within any area to which it is proposed to extend this Act, no notification shall be published under this sub-section in respect of such area without the previous sanction of the [7][Central Government].

(*2*) Any inhabitant of an area to which it is proposed to extend this Act may if he objects to such extension, submit his objection in writing to [4][the [5][State] Government] within a period of three months from the publication of the said notification in the [6][*Official Gazette*].

(*3*) At any time after the expiration of the said period, and after considering the objections, if any, submitted under sub-section (*2*), [4][the [5][State] Government] may, by notification in the [6][*Official Gazette*], extend this Act to the said area.

Definitions.

3. In this Act—

(*1*) "furnace" means any furnace or fire-place used—

(*a*) for working engines by steam, or

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1911, Part VII, page 383; for Report of Select Committee, *see ibid* 1912, Part VII, page 94; and for Proceedings in Council, *see ibid* 1912, Part VII, pages 42 and 231.

[2] These words were substituted for the words "Town and Island of Bombay" by Bom. 39 of 1951, s. 3, second schedule.

[3] These words were substituted for the original by Bom. 17 of 1945, s. 9, Schedule E, read with Bom. 52, of 1947, s. 2, proviso.

[4] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[5] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[6] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[7] The words "Central Government" were substituted for the words "Governor-General in Council" *ibid*.

* This Act has been repealed and re-enacted and the amendments made by section 9 and Schedule E of the said Act have been continued in force by Bom. 52 of 1947, s. 2.

(*b*) for any other purpose whatsoever :

Provided that no furnace or fire-place—

(*i*) used for the burning of the dead ;

(*ii*) used in a private house for domestic purposes other than the purpose specified in clause (*a*) ;

[1]* * * * * * *

shall be deemed to be a furnace or fire-place within the meaning of this Act.

[2][(*1A*) "flue" or "chimney" means any "flue" or "chimney" joined to, connected with or forming part of a furnace.]

(*2*) "Inspector" means a Chief Inspector of Smoke-nuisances, or an Assistant Inspector of Smoke-nuisances, appointed under this Act ;

(*3*) "the Commission" means the Bombay Smoke-nuisances Commission constituted under this Act ;

(*4*) "occupier" means any person for the time being paying, or liable to pay, to the owner the rent or any portion of the rent of the land or building in respect of which the word is used ;

(*5*) "owner"—

(*a*) when used in reference to a furnace, [3][flue or chimney], includes any agent or lessee using the furnace, [3][flue or chimney], and any foreman or other person superintending the working of the furnace, [3][flue or chimney] ;

(*b*) when used in reference to any premises, has the meaning assigned to it in section 3 of the City of Bombay Municipal Act, 1888 ; and Bom. III of 1888.

(*6*) "Magistrate" means a Presidency Magistrate, a Magistrate of the first class, or a Bench of Magistrates exercising first class powers under the Code of Criminal Procedure, 1898. V of 1898.

Constitution of Commission.

4. (*1*) [4][The [5][State] Government] shall, by notification in the [6][*Official Gazette*] constitute a Commission to be called the Bombay Smoke-nuisances Commission to supervise and control the working of this Act.

(*2*) The said Commission shall consist of a President nominated by [4][the [5][State] Government] and so many other members as [4][the [5][State] Government] may determine.

(*3*) One-half of the members (exclusive of the President) shall be nominated by [4][the [5][State] Government] ; and the remainder shall be elected, in such manner and for such period as, [4][the [5][State] Government] may direct, by bodies or associations whose interests arelikely to be affected by this Act ; and the appointment of all members, whether nominated or elected, shall be notified in the [6][*Official Gazette*].

(*4*) Where a casual vacancy occurs in the case of a nominated member [4][the [5][State] Government] shall make a fresh nomination, and where a casual vacancy occurs in the case of an elected member the election shall be made by the same body or association as that which elected, the member whose place is to be filled ; and a member so nominated or elected shall hold office so long as the member whose place he fills would have been entitled to hold office had the vacancy not occurred.

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[1] Clause (*iii*) was repealed by s. 2 of the Bombay Smoke-nuisance (Amendment) Act, 1920 (Bom. 8 of 1920).

[2] Sub-section (*1A*) was inserted by Bom. 10 of 1929, s. 2 (*1*).

[3] The words "flue or chimney" were inserted, *ibid*, s. 2(*2*).

[4] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[5] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[6] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

(*5*) No act done by the Commission shall be questioned on the ground merely of the existence of any vacancy in or any defect in the constitution of the Commission.

Appointment of Inspectors.

5. (*1*) [1][The [2][State] Government] may, by notification in the [3][*Official Gazette*], appoint a Chief Inspector of Smoke-nuisances and so many Assistant Inspectors of Smoke-nuisances as they may think fit.

(*2*) Every Assistant Inspector appointed under sub-section (*1*) shall be subordinate to the Chief Inspector, and all Inspectors shall be subordinate to, and subject to the control of, the Commission.

Inspectors to be public servants.

6. Every Inspector appointed under this Act shall, for the purposes of this Act, be deemed to be a public servant within the meaning of the [4]Indian Penal Code.

XLV of 1860.

Power to prohibit the erection of kilns or furnaces, or the manufacture of coke, in specified areas; and to inflict penalties.

7. (*1*) [1][The [2][State] Government] may, by notification in the [3][*Official Gazette*], prohibit [5][either absolutely or subject to such conditions and within such area as may be specified in the notification,]—

(*a*) the erection of brick, tile or lime kilns,

(*b*) [6][the erection or re-erection of, or addition to, or alteration in,] furnaces to be used for the calcining or smelting of ores or minerals, or for the casting, puddling or rolling of iron or other metals or for the conversion of pig-iron into wrought iron, or

(*c*) the manufacture of coke in ovens or with special appliances, or

(*d*) the making of coke without ovens or special appliances:

Provided that where, prior to the issue of such notification, a licence has been granted by the Municipal Commissioner under the provisions of section 394 of the City of Bombay Municipal Act, 1888, for the erection of a furnace to be used for any of the purposes mentioned in clauses (*a*) and (*b*), such notification shall not affect [7][such furnace so long as it is not re-erected, or any alteration or addition is not made thereto.]

Bom. III of 1888.

(*2*) [8][If any furnace be erected, re-erected, altered or added to or any kiln be erected] in contravention of any notification issued under sub-section (*1*), clause (*a*) or (*b*), the owner thereof shall be liable to fine which may extend to two hundred and fifty rupees.

(*3*) If any person manufactures coke in contravention of any notification issued under sub-section (*1*), clause (*c*), he shall be liable to fine which may extend on first conviction to two hundred and fifty rupees, and on any subsequent conviction to five hundred rupees.

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[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", by the Adaptation of Indian Laws Order in Council.

[4] Central Acts.

[5] These words were substituted for the words "within any specified area" by Bom. 55 of 1953, s. 2(*1*).

[6] These words were substituted for the words "the erection of", *ibid.*

[7] These words were substituted for the words "such furnace or kiln", *ibid.*

[8] These words were substituted for the words "If any furnace or kiln be erected", *ibid*, s. 2 (*2*).

(*4*) If any person makes coke in contravention of any notification issued under sub-section (*1*), clause (*d*), he shall be liable to fine which may extend on first conviction to twenty-five rupees, and on any subsequent conviction to fifty rupees.

(*5*) If any coke is made in any building or place in contravention of a notification issued under sub-section (*1*), clause (*d*), the owner or occupier of such building or place shall be liable to fine which may extend on first conviction to twenty-five rupees, and on any subsequent conviction to fifty rupees.

(*6*) Where any coal is in process of being made or has been made into coke in contravention of a notification issued under sub-section (*1*), clause (*d*), an Inspector may seize such coal or coke, and report the seizure to a Magistrate who may, after such enquiry as he thinks necessary, order such coke or coal to be confiscated, and to be sold in accordance with rules to be made by [1][the [2][State] Government] in this behalf under section 11.

Power to order demolition of kilns or furnaces unlawfully erected.

8. (*1*) A Magistrate imposing a fine on any person under sub-section (*2*) of section 7 may by order direct such person to demolish the kiln or furnace within a period to be specified in the order.

(*2*) Any such person failing to demolish any kiln or furnance within the period prescribed in any such order, or within such longer period as the Magistrate may, for reasons to be stated, allow, shall be liable to fine which may extend to twenty rupees for every day thereafter during which such failure continues.

Penalty for excessive emission of smoke.

9. (*1*) If smoke be emitted from any furnace in greater density, or at a lower altitude, or for a longer time, than is permitted by rules made under this Act, the owner of the furnace shall be liable to fine which may extend on first conviction to fifty rupees, on second conviction to one hundred rupees, and on any subsequent conviction to two hundred rupees.

(*2*) Sub-section (*1*) shall not apply to any furnace which is used—

(*a*) in connection with a brick, tile or lime kiln, or

(*b*) for the purpose mentioned in clause (*d*) of sub-section (*1*) of section 7.

No furnace etc., to be erected, etc., or used except with approval or permission of Commission.

[3][**9A.** (*1*) (*a*) No furnace, flue or chimney shall be erected, altered, added to or re-erected except in accordance with plans and for the purpose approved by the Commission.

(*b*) No furnace, flue or chimney erected, altered, added to or re-erected otherwise than in accordance with the plans approved by the Commission shall be used for any purpose except with the permission of the Commission and in accordance with the terms and conditions subject to which such permission may be granted.

(*c*) No furnace, flue or chimney erected, altered, added to or re-erected in accordance with the plans and for the purpose approved by the Commission shall be used for any other purpose except with the fresh approval of the Commission.

[1] The words " the Provincial Government " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[3] This section was substituted for the original by Bom. 55 of 1953, s. 3.

(*2*) If any furnace, flue or chimney is erected, altered, added to or re-erected in contravention of the provisions of clause (*a*), or is used in contravention of the provision of clause (*b*) or clause (*c*) of sub-section (*1*), as the case may be, the owner of such furnace, flue or chimney shall, on conviction, be punished with fine which may extend to one hundred rupees and in the case of a continuing contravention of the said clause (*b*) or clause (*c*) with an additional fine which may extend to twenty rupees for every day during which such contravention continues after conviction for the first such contravention.]

Power to order demolition of furnace, flue or chimney unlawfully erected.

[1][**9B.** (*1*) A Magistrate imposing a fine on any person under sub-section (*2*) of section 9A may, by order, direct such person to demolish the furnace, flue or chimney within a period to be specified in the order.

(*2*) Any such person failing to demolish any furnace, flue or chimney within the period specified in the order, or within such longer period as the Magistrate may, for reasons to be stated, allow, shall be liable to fine which may extend to twenty rupees for every day thereafter during which such failure continues.]

Powers of Inspectors.

10. (*1*) Any Inspector may, after giving reasonable notice in writing to the owner, manager, engineer or person in charge—

(*a*) enter and inspect, during working hours, any building or place which contains a furnace, [2][flue or chimney], and inspect such furnace, [2][flue or chimney];

(*b*) under the written authority of the Commission, use and test any appliance used for preventing the emission of smoke from such furnace, [2][flue or chimney]; and

(*c*) under the written authority of the Commission, direct that any such furnace [2][flue or chimney] be worked [3]* * experimentally, during his visit to such building or place in any manner which he may consider suitable for preventing or reducing the emission of smoke, but not so as to interfere with the business carried on in such building or place further than is necessary for the purposes of the experiment.

(*2*) If any owner of a furnace, [2][flue or chimney] in respect of which a direction is given under clause (*c*) of sub-section (*1*) fails to secure compliance with such direction, he shall be liable to fine which may extend to one hundred rupees :

Provided that where any Inspector has reason to believe that any offence under sub-section (*2*), (*3*) or (*4*) of section 7 has been or is being committed on any premises it shall be lawful for him to enter on such premises without previous notice and without written authority from the Commission.

Rules.

11. (*1*) [4][The [5][State] Government] may, [6]* * * * after previous publication, make rules to carry out the objects of this Act.

(*2*) In particular, and without prejudice to the generality of sub-section (*1*), such rules may—

(*a*) regulate the transaction of business by the Commission ;

(*b*) prescribe the powers and duties to be exercised and performed by the Commission and by Inspectors, respectively, and regulate the exercise and performance of those powers and duties ;

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[1] Section 9B was inserted by Bom. 10 of 1929, s. *3*.
[2] The words "flue or chimney" were inserted, *ibid*, s. 4 (*a*).
[3] The words "or stoked" were omitted, *ibid*, s. 4(*b*).
[4] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.
[5] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[6] The words "with the previous sanction of the Governor-General in Council and" were repealed by s. 3 of the Bombay Smoke-nuisances (Amendment) Act, 1920 (Bom. 8 of 1920).

(*c*) prescribe a scale for the purpose of determining the density of smoke;

(*d*) prescribe the degree of density of smoke that may be emitted from a furnace;

(*e*) prescribe the time during which smoke of such density may be emitted from a furnace;

(*f*) prescribe the altitude below which smoke may not be emitted from a furnace;

[1]* * * * * * *

(*h*) prescribe a procedure for the giving of warning to offenders before instituting a prosecution under this Act, and declare the minimum period which should be allowed to elapse in different classes of cases between the giving of such warning and the institution of a prosecution;

[2][(*hh*) prescribe the procedure regarding the submission and approval of plan under sub-section (*1*) of section 9A.]

(*i*) fix the amount of fee payable to each or any member of the Commission attending a meeting of the Commission; and

(*j*) prescribe a procedure for the sale and disposal of the receipts of the sale of coke or coal confiscated under sub-section (*6*) of section 7.

(*3*) The date to be specified in accordance with clause (*c*) of section 24 of the Bombay General Clauses Act, 1904, as that after which a draft of rules proposed to be made under this section will be taken into consideration, shall not be less than three months from the date on which the draft of the proposed rules was published for general information. Bom. I of 1904.

(*4*) Any rule to be made under this Act shall, before it is published for criticism under sub-section (*1*), be referred to the Commission constituted under section 4, and the rule shall not be so published until the said Commission has reported as to the expediency of making the proposed rule and as to the suitability of its provisions.

Cognizance of offences.

12. A Magistrate may take cognizance of an offence against this Act only—

(*a*) upon a complaint made by, [3][an inspector with the previous sanction of the Commission or of a sub-committee appointed by the Commission], and

[4][(*b*) within a period of three months from the date on which the alleged commission of the offence came to the knowledge of the Inspector.]

Exercise of the powers of the Commission by the President or any member authorized by the President.

[5][**12A.** (*1*) The President of the Commission or in the event of the illness or absence of the President from Bombay any member of the Commission] authorized in writing by the President in this behalf may exercise the powers of the Commission under sections 9A, 10 and 12.

(*2*) The President or member authorized under sub-section (*1*) shall report to the Commission before its next ordinary meeting any action taken by him in the exercise of the powers under section 9A, 10 or 12.]

13. [*Disposal of fines.*] *Omitted by the Adaptation of Indian Laws Order in Council.*

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[1] Clause (*g*) was repealed by s. 3 of the Bombay smoke nuisances (amendment) Act, 1920 (Bom. 8 of 1920).

[2] Clause (*hh*) was inserted by Bom. 10 of 1929, s. 5.

[3] These words were substituted for the words "or with the written authority of the Chief Inspector," by Bom. 10 of 1924, s. 2.

[4] This clause was substituted for the original by Bom. 55 of 1953, s. 4.

[5] Section 12A was inserted by Bom. 8 of 1935, s. 2.

BOMBAY ACT No. XII OF 1912.[1]

[THE BOMBAY ABKARI (AMENDMENT) ACT, 1912.]

[*7th September 1912.*]

An Act further to amend the Bombay Abkari Act, 1878.[2]

Bom. V of 1878.

WHEREAS it is expedient further to amend the Bombay Abkari Act, 1878, in manner hereinafter appearing;

And whereas the previous sanction of the Governor General required by section 5 of the Indian Councils Act, 1892, has been obtained for the passing of this Act; It is hereby enacted as follows:—

1-41. [*Amendments made by sections 1 to 41 have been incorporated in the principal Act.*]

XVI of 1863.

42. " The Excise (Spirits) Act, 1863," shall be repealed as to the Presidency of Bombay. Local repeal of Act XVI of 1863.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1912, Part VII, page 127; for Report of Select Committee, *see ibid.*, 1912, Part VII, page 405; and for Proceedings in Council *see ibid.*, 1912, Part VII, pages 259, 500 and 664. The short title was given by Bom. 2 of 1921.

[2] This Act except section 29A has been repealed by Bom. 25 of 1949.

THE INDIAN LIMITATION (AMENDMENT) ACT, 1912.

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5. Provision for restoration of suits.
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7. Third parties protected.

BOMBAY ACT No. XIII OF 1912.[1]

[THE INDIAN LIMITATION (AMENDMENT) ACT, 1912.]

[*29th November 1912.*]

An Act to amend the Indian Limitation Act, 1908.

IX of 1908. WHEREAS it is expedient to amend the [2]Indian Limitation Act, 1908, in the manner hereinafter appearing :

AND WHEREAS the previous sanction of the Governor General required by section 5 of the [3]Indian Councils Act, 1892, has been obtained for the passing of this Act ; It is hereby enacted as follows :—

Short title. **1.** This Act may be called the Indian Limitation (Amendment) Act, 1912.

Amendment of section 31. **2.** Notwithstanding anything contained in the [2]Indian Limitation Act, IX of 1908, hereinafter called "the said Act", in computing the period of two years mentioned in section 31 of the said Act in the case of any suit by a mortgagee for foreclosure or for sale for which a certificate granted under section 46 of the XVII of 1879. [4]Dekkhan Agriculturists' Relief Act, 1879, is required the time intervening between the application made by the mortgagee under section 39 of the last mentioned Act, and the institution of such suit shall be excluded, provided that such suit has already been instituted, or is instituted within six months from the commencement of this Act ; and no such suit shall be dismissed on the ground that the certificate was not obtained within the year immediately preceding the filing of the suit.

Applicability of section 4 of the Indian Limitation Act, 1908. **3.** The period of two years mentioned in section 31 of the said Act shall for the purposes of this Act be deemed to be a period of limitation within the meaning of section 4 of the said Act.

Retrospective effect of section 3. **4.** The provisions of section 3 shall be deemed to have come into operation from the seventh day of August, 1908.

Provision for restoration of suits. **5.** (*1*) Where the claim of a mortgagee for foreclosure or for sale for which a certificate granted under section 46 of the [4]Dekkhan Agriculturists' Relief Act, XVII of 1879. 1879, is required has been wholly or in part dismissed or withdrawn after the seventh day of August, 1910, and before the commencement of this Act either in a Court of first instance or of appeal or of revision, and the Court on application made as hereinafter provided is satisfied that such claim was so dismissed or withdrawn on the ground that—

(*a*) the time intervening between the application made by the mortgagee under section 39 of the [4]Dekkhan Agriculturists' Relief Act, 1879, and the grant of the certificate under section 46 of the last mentioned Act or the institution of the suit, as the case may be, could not be excluded in computing the period of two years mentioned in section 31 of the said Act, or

XVII of 1879.

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[1] For Statement of Object and Reasons, *see Bombay Government Gazette*, 1912, Part VII, page 536 ; and for Proceedings in Council, *see ibid.*, 1912, Part VII, pages 787 and 866.

[2] Central Acts.

[3] *See* now the Government of India Act, 1935.

[4] *See Supra.*

(*b*) the certificate was not obtained within the year immediately preceding the filing of the suit, or

(*c*) the period of two years mentioned in section 31 of the said Act was not a period of limitation within the meaning of section 4 of the said Act,

the case shall be restored on an application in writing to the Court, by which the claim was dismissed or in which it was withdrawn; provided that such application is made within six months from the commencement of this Act.

(*2*) Where any such claim as aforesaid has been dismissed for failure to prosecute such claim after the seventh day of August, 1910, and before the commencement of this Act either in a Court of first instance or of appeal or of revision, and the Court on application made as hereinafter provided is satisfied that such failure was due to the belief that such claim, if prosecuted, would be dismissed for any of the grounds specified in clauses (*a*), (*b*) and (*c*) of sub-section (*1*),

the case shall be restored on an application in writing to the Court by which the claim was dismissed; provided that such application is made within six months from the commencement of this Act.

(*3*) The provisions of sections 2, 3 and 4 shall apply to any case restored under either of the foregoing sub-sections.

Provision for restoration of applications.

6. Any application by the mortgagee under section 39 of the Dekkhan Agriculturists' Relief Act, 1879, in respect of any claim for sale or foreclosure as to which the mortgagee was entitled to the benefit of the two years' period mentioned in section 31 of the said Act, made on or before the eighth day of August, 1910, and dismissed after the twenty-third day of February, 1911, shall be restored to the file of the Conciliator provided that the application for such restoration is made within two months from the commencement of this Act. XVII of 1879.

Third parties protected.

7. Nothing in this Act shall affect the interests of third parties that may have come into existence between the twenty-third of February, 1911, and the twenty-eighth of September, 1912.

BOMBAY ACT No. IV OF 1913.[1]

[THE BOMBAY LAND REVENUE (AMENDMENT) ACT, 1913.]

[*28th May 1913.*]

An Act to amend the Bombay Land Revenue Code, 1879, the Khoti Settlement Act, 1880, and the Gujarat Talukdars Act, 1888, and to repeal the Bombay Land Record-of-rights Act, 1903.

Bom. V of 1879. Bom. I of 1880. Bom. VI of 1888. Bom. IV of 1903.

WHEREAS it is expedient to amend the Bombay Land Revenue Code, 1879, the Khoti Settlement Act, 1880, and the Gujarat Talukdars Act, 1888, in manner hereinafter appearing, and to repeal the Bombay Land Record-of-rights Act, 1903 ;

And whereas the previous sanction of the Governor General required by section 5 of the [2]Indian Councils Act, 1892, has been obtained for the passing of section 41 of this Act ; It is hereby enacted as follows :—

PART I.

GENERAL.

Short title.

1. This Act may be called the Bombay Land Revenue (Amendment) Act, 1913.

Bom. IV of 1903.

Repeal.

2. The Bombay Land Record-of-rights Act, 1903, shall be repealed.

Previous amending Acts.

3. Wherever this Act amends an enactment which has previously been amended by an Act passed before the commencement of this Act, then any of the provisions of such previous amending Act which may be inconsistent with any of the provisions of this Act shall be repealed to the extent to which they are inconsistent therewith.

4-94. [*Amendments made by sections 4 to 94 both inclusive have been incorporated in the Bombay Land Revenue Code, 1879, the Khoti Settlement Act, 1880, and the Gujarat Talukdars Act, 1888.*]

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1912, Part VII, page 905 ; for Report of Select Committee, *see ibid.*, 1913, Part VII, page 28 ; and for Proceedings in Council, *see ibid.*, 1913, Part VII, pages 56 and 134.

[2] *See* now the Government of India Act, 1935.

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BOMBAY ACT No. VII OF 1913.[1]

[THE PRINCE OF WALES MUSEUM (AMENDING) ACT, 1913.]

[*4th October 1913.*]

An Act to amend the Prince of Wales Museum Act, 1909.

Bom. III of 1909.

WHEREAS it is expedient to amend the [2]Prince of Wales Museum Act, 1909, in the manner hereinafter appearing; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Prince of Wales Museum (Amending) Act, 1913.

Amendment of schedule.

2. From the area comprised in the schedule to the Prince of Wales Museum Act, 1909 (hereinafter referred to as " the said Act "), the following area shall be excluded, namely:—

All that piece or parcel of land containing by admeasurement 359·52 square yards, be the same a little more or less, of which 275·57 square yards are contained between the outer side of the curve at the North-East angle of the boundary of the site of the Prince of Wales Museum of Western India and lines tangential to the extremeties of the said curve, and the remaining area amounting to 83·95 square yards is contained in an irregular figure projecting outwards from the tangential line of the said curve which runs more or less parallel to Apollo Street, the whole of the said piece or parcel of land with the boundaries thereof being delineated for greater clearness on a plan signed by the Executive Engineer, Presidency District, and a majority of the Trustees of the Prince of Wales Museum of Western India and deposited with the Secretary to Government in the General Department.

Property excluded from schedule to revest in His Majesty.

3. All the estate, right, title and interest of the Trustees of the Prince of Wales Museum of Western India in and to the area excluded from the schedule to the said Act by the last preceding section shall vest in His Majesty.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1913, Part VII, page 107; and for Proceedings in Council, *see ibid.*, 1913, Part VII, page 533.

[2] *Supra.*

THE BOMBAY TOWN PLANNING ACT, 1915.

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BOMBAY ACT No. I OF 1915.[1]

[THE BOMBAY TOWN PLANNING ACT, 1915.]

[*6th March 1915*]

Repealed in part and amended by Bom. 2 of 1919.
Amended by Bom. 13 of 1920 ;
" " " 16 of 1920.
Adapted and modified by the Adaptation of Indian Laws Order in Council.
Amended by Bom. 21 of 1938 ;
" " " 4 of 1942 ; *
" " " 14 of 1946 ;
" " " 55 of 1948 ;
" " " 69 of 1948 ;
" " " 13 of 1949 ;
" " " 59 of 1949 ;
" " " 8 of 1950.
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 28 of 1950 ;
" " " 19 of 1951.

An Act to provide for the making and execution of town planning schemes.

WHEREAS it is expedient that the development of certain areas should be regulated with the general object of securing proper sanitary conditions, amenity and convenience to the persons living in such areas and in neighbouring areas ;

AND WHEREAS the previous sanction of the Governor General required by section 5 of the [2]Indian Councils Act, 1892, has been obtained for the passing of this Act ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title and extent.

1. (*1*) This Act may be called the Bombay Town Planning Act, 1915.

[3][(*2*) It shall extend to the whole of the [4][State] of Bombay except the City of Bombay.

(*3*) The [5][State] Government may, on a written application of the Municipal Corporation of the City of Bombay, extend by notification in the *Official Gazette*, this Act to the City of Bombay or any part thereof, from such date as may be appointed in this behalf :

Provided that such application has been made after it has been assented to by more than half the total number of the councillors of the Corporation.]

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1913, Part VII, page 845 ; for Report of Select Committee, *see ibid*, 1914, Part VII, page 510 ; and for Proceedings in Council *see ibid*, 1914, Part VII, page 78 ; *ibid*, 1915, page 11.

[2] *See* now the Government of India Act, 1935.

[3] Sub-sections (*2*) and (*3*) were substituted for the original sub-section (*2*) by Bom. 21 of 1938, s. 2.

[4] This word was substituted for the word " Province " by the Adaptation of Laws Order, 1950.

[5] This word was substituted for the word " Provincial ", *ibid*.

* This Act was repealed and s. 2 thereof was re-enacted by Bom. 23 of 1947, s. 2.

Interpretation-clause.

2. In this Act unless there is anything repugnant in the subject or context—

[1][(*1a*) "land" includes benefits to arise out of land and things attached to the earth or permanently fastened to any thing attached to the earth ;]

(*a*) "local authority" means a Municipality or, where there is no Municipality, a committee appointed for a notified area under the provisions of Chapter XIV of the Bombay District Municipal Act, 1901, as modified by this Act [2][or a panchayat established under the Bombay Village Panchayats Act, 1933 ;] Bom. III of 1901.

(*b*) "prescribed" means prescribed by rules made under this Act ;

(*c*) "owner" includes an owner in severalty, in common or joint ; and includes also an occupant as defined in clause (*16*) of section 3 of the Bombay Land Revenue Code, 1879 ; Bom. VI of 1933. Bom. V of 1879.

(*d*) "plot" means a continuous portion of land held in one ownership ; [3]* * *

[4][(*dd*) "preliminary scheme" means a scheme relating to a town planning prepared by the arbitrator under section 44B ;]

(*e*) "reconstituted plot" means a plot which is in any way altered by the making of a town-planning scheme [5]* * ;

Explanation.—"Altered" includes alteration of ownership.

(*f*) "scheme" includes a plan relating to a town-planning scheme.

Contents of planning scheme.

3. A town-planning scheme may make provision for any of the following matters :—

(*a*) the construction, diversion, alteration and stopping up of streets, roads and communications ;

(*b*) the construction, alteration, and removal of buildings, bridges and other structures ;

(*c*) the plotting out of land as building sites whether such land is intended to be used for building purposes in the immediate future or not ;

(*d*) the allotment or reservation of land for roads, open spaces, gardens, recreation grounds, schools, markets and public purposes of all kinds ;

(*e*) drainage inclusive of sewage and of surface drainage and sewage disposal ;

(*f*) lighting ;

(*g*) water supply ;

(*h*) the preservation of objects of historical interest or natural beauty and of buildings actually used for religious purposes or regarded by the public with special religious veneration ;

(*i*) the imposition of conditions and restrictions in regard to the open space to be maintained about buildings, the number, height and character of buildings allowed in specified areas and the purposes to which buildings or specified areas may or may not be appropriated ;

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[1] This clause was inserted by Bom. 19 of 1951, s. 2.

[2] These words and figures were added by Bom. 55 of 1948, s. 2.

[3] The words "other than land used, allotted or reserved for any public or municipal purpose" were deleted by Bom. 21 of 1938, s. 3 (*a*).

[4] This clause was inserted by Bom. 19 of 1951 s. 2.

[5] The words "otherwise than by the severance of land used, allotted or reserved for any public or municipal purpose" were deleted by Bom. 21 of 1938, s. 3 (*b*).

(*j*) the suspension so far as may be necessary for the proper carrying out of the scheme, of any rule having the force of law, bye-law, Act, or other provision [1]* * * which is in force in the area included in the scheme :

[2][Provided that it shall not be lawful to suspend in any such area any Act of Parliament [3][of the United Kingdom] or, [4][any Indian law relating to any of the matters enumerated in List I in the Seventh Schedule to the [5][Constitution] ;].

(*k*) such other matter not inconsistent, with the objects of this Act as may be prescribed.

Disputed ownership.

4. (*1*) Where there is a disputed claim as to the ownership of any piece of land included in an area in respect of which [6][the local authority has declared, under section 9, its intention to make a town planning scheme] and any entry in the record-of-rights or mutation register relevant to such disputed claim is inaccurate or inconclusive, an enquiry may be held [7][on an application being made by the local authority or the Arbitrator at any time prior to the date on which the Arbitrator draws up the final scheme under clause 10 of section 30] by such officer as the [8][[9][State] Government] [10]* * * * may appoint for the purpose of deciding who shall be deemed to be the owner for the purposes of this Act.

(*2*) Such decision shall not be subject to appeal but it shall not operate as a bar to a regular suit.

(*3*) Such decision shall, in the event of a Civil Court passing a decree which is inconsistent therewith, be corrected, modified or rescinded in accordance with such decree as soon as practicable after such decree has been brought to the notice of the local authority either by the Civil Court or by some person affected by such decree.

Right of entry.

5. For the purpose of the preparation, making, or execution of any town-planning scheme any person authorized by the local authority or any public servant or person duly appointed or authorised under this Act may, after giving such notice as may be prescribed to the owner, occupier or other person interested in any land, enter upon, survey and mark out such land and do all acts necessary for such purpose.

Powers of local authority to borrow money and to make and execute a town-planning scheme.

6. (*1*) A local authority as defined in this Act shall be deemed to be a local authority as defined in the [11]Local Authorities Loans Act, 1914; for the purpose of borrowing money under that Act, and the making and execution of a town-planning scheme shall be deemed to be a work which such local authority is legally authorised to carry out.

IX of 1914.

(*2*) Any expenses incurred by a local authority under this Act or any town-planning scheme made thereunder may be defrayed out of its funds.

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[1] The words "under whatever authority made" were repealed by section 3 and Schedule II of the Bombay Repealing and Amending Act, 1919 (Bom. 2 of 1919).

[2] This proviso was added by section 2 and Schedule I, Part II, *ibid.*

[3] These words were inserted by the Adaptation of Laws Order, 1950.

[4] These words substituted for the words "without the sanction of the Governor-General, any Act of the Governor-General in Council" by the Adaptation of Indian Laws Order in Council.

[5] This word was substituted for the words and figures "Government of India Act, 1935" by the Adaptation of Laws Order, 1950.

[6] These words and figures were substituted for the words "any of the provisions of this Act are to be applied" by Bom. 21 of 1938, s. 4 (*1*).

[7] These words and figures were added, *ibid*, s. 4 (*2*).

[8] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[9] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[10] The words "in any area for which a municipal corporation is constituted under any enactment or the Commissioner elsewhere" were deleted by Bom. 28 of 1950, s. 4, Schedule.

[11] Central Acts.

Notified areas.

7. Notwithstanding anything contained in sub-section (*3*) of section 187 of the Bombay District Municipal Act, 1901, the [1][2][State] Government] may declare any specified area, for which it is proposed to make a town-planning scheme, to be a notified area. Bom. III of 1901.

CHAPTER II.

DECLARATION OF INTENTION TO MAKE A SCHEME AND PREPARATION OF DRAFT SCHEME.

Land in respect of which a town-planning scheme may be made.

8. (*1*) A town-planning scheme may be made in accordance with the provisions of this Act in respect of any land which is in course of development or is likely to be used for building purposes.

(*2*) Where it appears to the [1][2][State] Government] that a piece of land already built upon, or a piece of land not likely to be used for building purposes is so situated with respect to any land which is in course of development or likely to be used for building purposes that it ought to be included in any town-planning scheme intended to be made with respect to the last-mentioned land, the [1][2][State] Government] may sanction the making of a scheme including such piece of land as aforesaid, and providing for the demolition or alteration of any building thereon so far as may be necessary for carrying the scheme into effect.

(*3*) The expression "land likely to be used for building purposes" shall include any land likely to be used as or for the purpose of providing, open spaces, roads, streets, parks, pleasure or recreation grounds, or for the purpose of executing any work upon or under the land incidental to a town-planning scheme, whether in the nature of a building work or not, and the decision of the [1][2][State] Government] as to whether land is likely to be used for building purposes or not shall be final.

No town-planning schemes for areas for which housing schemes sanctioned under Bom. LXIX of 1948.

[3][**8A.** Notwithstanding anything contained in this Act, no town-planning scheme shall be made for any area for which a housing scheme has been sanctioned under the provisions of the Bombay Housing Board Act, 1948.] Bom. LXIX of 1948.

Powers of a local authority to resolve on a declaration of intention to make a scheme and of the [2] [State] Government to sanction such declaration.

9. (*1*) The local authority having jurisdiction over any such land as is referred to in section 8 may by resolution declare its intention to make a town-planning scheme in respect of the whole or any part of such land and of any land which is in the vicinity of such land, but which is not included [4][in the area over which any other local authority has jurisdiction] provided that for the making of such scheme the sanction of tne [1][2][State] Government] shall be necessary.

(*2*) Within twenty-one days from the date of such declaration (hereinafter referred to as a declaration of intention to make a scheme), the local authority shall despatch a copy thereof for publication in the [5][*Official Gazette*] and shall publish it in the prescribed manner and shall apply to the [1][2][State] Government] for sanction for the making of such scheme.

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[1] The words "Provincial Government" were substituted for the words "Governor-in-Council" by the Adaptation of Indian Laws Order in Council.

[2] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] This section was inserted by Bom. 69 of 1948, s. 75, Sch.

[4] These words were substituted for the original by Bom. 55 of 1948, s. 3.

[5] The word "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

(*3*) With its application for such sanction the local authority shall send to the [1][[2][State] Government] a plan showing the area which it proposes to include in the town-planning scheme and the surrounding lands.

(*4*) A copy of such plan shall be open to the inspection of the public at all reasonable hours at the head office of the local authority.

(*5*) If within one month from the date of such publication in the [3][*Official Gazette*] any person likely to be affected by such scheme communicates in writing to the [1][[2][State] Government] any objection or suggestion relating to such scheme the [1][[2][State] Government] shall consider such objection or suggestion.

(*6*) After receiving such application and after making such inquiry as [4][it] may think fit, the [1][[2][State] Government] may, by notification in the [3][*Official Gazette*], either sanction the making of such scheme with or without modifications and subject to such conditions as [4][it] may think fit to impose, or [4][it] may by a similar notification refuse to give sanction.

Preparation and publication of draft scheme.

10. (*1*) Within twelve months from the date of the notification sanctioning the making of a town-planning scheme the local authority shall in consultation with the owners prepare, and publish in the prescribed manner, a draft scheme for the area in respect of which sanction has been given.

[5][Provided that on application made by the local authority in that behalf, the [2][State] Government may from time to time, by notification in the *Official Gazette*, extend the said period of twelve months, but the aggregate period of such extensions shall not exceed twelve months.]

(*2*) If such publication is not made by the local authority within [6][the period specified in sub-section (*1*), or where the said period is extended under the proviso thereto, such extended period], the [1][[2][State] Government] [7]* * * may in consultation with the owners prepare, and publish in the prescribed manner, a draft scheme for the area in respect of which sanction has been given within a further period of nine months.

Lapsing of sanction.

(*3*) If such publication is not made by the [1][[2][State] Government] or the Commissioner, as the case may be, within the further period specified in sub-section (*3*), the sanction of the [1][[2][State] Government] for the making of such town planning scheme shall lapse, and until a period of three years has elapsed from the date of such sanction it shall not be competent to the local authority to apply for fresh sanction for the making of any town-planning scheme for the same area or for any part of it.

Contents of draft scheme.

11. The draft scheme shall contain the following particulars :—

(*a*) the area, ownership and tenure of each original plot;

(*b*) the land allotted or reserved under clause (*d*) of section 3 with a general indication of the uses to which such land is to be put [8][and the terms and conditions subject to which such land is to be put to such uses] ;

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[4] The word "it" was substituted for the word "he", *ibid.*

[5] This proviso was added by Bom. 14 of 1946, s. 2 (*i*).

[6] These words, figure and brackets were substituted for the words "twelve months from the date of such notification" *ibid*, s. 2 (*ii*).

[7] The words "in any area for which a municipal corporation is constituted under any enactment or the Commissioner elsewhere" deleted by Bom. 28 of 1950, s. 4, Schedule.

[8] These words were added by Bom. 21 of 1938, s. 5.

(*c*) the extent to which it is proposed to alter the boundaries of original plots;

(*d*) an estimate of the net cost of the scheme to be borne by the local authority;

(*e*) a full description of all details of the scheme under such clauses of section 3 as may be applicable; and

(*f*) any other prescribed particluars.

Reconstituted plots.

12. (*1*) In the draft scheme the size and shape of every reconstituted plot shall be so determined as to render it, so far as may be, suitable for building purposes.

(*2*) In order to render original plots more suitable for building purposes the draft scheme may contain proposals—

(*a*) to form a reconstituted plot by the alteration of the boundaries of an original plot,

(*b*) to provide with the consent of the owners that two or more original plots each of which is held in ownership in severality or in joint onwership shall hereafter, with or without alteration of boundaries, be held in ownership in common as a reconstituted plot,

(*c*) to allot a plot to any owner dispossessed of land in furtherance of the scheme, and

(*d*) to transfer the ownership of a plot from one person to another.

Objection to the draft scheme to be considered.

13. If within one month from the date of publication of the draft scheme any person affected by such scheme communicates in writing to the local authority any objection relating to such scheme the local authority shall consider such objection and may, at any time before submitting the draft scheme to the [1][[2][State Government] as hereinafter provided, modify such scheme as it thinks fit.

Power of the [2][State] Government to sanction a draft scheme.

14. (*1*) The local authority shall [3][within the period prescribed] submit the draft scheme with any modifications which it may have made therein together with the objections which may have been communicated to it to the [1][[2][State] Government] and shall at the same time aplpy for [4][its] sanction.

(*2*) After receiving such application and after making such inquiry as [5][it] may think fit, the [1][[2][State] Government] may [6][within the period prescribed] by notification in the [7][*Official Gazette*] either sanction such scheme with or without modifications and subject to such conditions as [5][it] may think fit to impose, or [8]* * * refuse to give sanction.

(*3*) If the [1][[2][State] Government] sanctions such scheme [5][it] shall in such notification state at what place and time the draft scheme shall be open to the inspection of the public.

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[1] The words "Provincial Government" were substitued for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] These words were substituted for the word "then" by Bom. 21 of 1938, s. 6 (*a*)

[4] The word "its" was substituted for the word "his" by the Adaptation of Indian Law Order in Council.

[5] The word "it" was substituted for the word "he" *ibid.*

[6] These words were inserted by Bom. 21 of 1938, s. 6 (*b*) (*i*).

[7] The words "*Official Gazette*" were substitued for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[8] The words "he may by a similar notification" were omitted by Bom. 21 of 1938. s. 6 (*b*) (*ii*).

15. (*1*) When a local authority has published a declaration of intention to make a scheme— Restrictions after declaration.

(*a*) no person shall within the area included in the scheme erect or proceed with any building or work [1][or remove, pull down or alter any building or part of a building or remove any earth, stone or material] unless such person has applied for and obtained the necessary permission which shall be contained in a commencement certificate granted by the local authority in the form prescribed ;

(*b*) the local authority on receipt of such application shall at once furnish the applicant with a written acknowledgment of its receipt, and after enquiry may either grant or refuse such certificate or grant it subject to such conditions [2][as the local authority may, with the previous approval of the Provincial Government, think fit to impose], [3][provided that if an Arbitrator has been appointed under section 29 the local authority shall not grant such certificate without obtaining the previous concurrence of such Arbitrator, unless such Arbitrator fails to communicate his decision in the matter to the local authority within two months from the date of the despatch of the application to him by the local authority. If] the local authority communicates no decision to the applicant within three months from the date of such acknowledgment he shall be deemed to have been granted such certificate ;

[4][(*c*) if any person contravenes the provisions contained in clause (*a*) or clause (*b*),—

(*i*) the local authority may direct such person by notice in writing to stop any work in progress, and after making enquiry in the prescribed manner, remove, pull down or alter any building or other work in the area included in the scheme, [5][in respect of which such contravention is made,] and

(*ii*) such person shall, on being convicted for such contravention, be liable to fine which may extend to Rs. 1,000 and in the case of a continuing contravention of the aforesaid provisions, he shall be liable to an additional fine which may extend to Rs. 10 for each day during which such contravention continues after conviction for the first such contravention ;]

(*d*) any expenses incurred by the local authority under clause (*c*) shall be a sum due to the local authority under this Act from the person in default ;

[6][(*e*) any diminution in the value of an original plot occasioned by any contravention of clause (*a*) or clause (*b*) shall, notwithstanding anything contained in section 16, 17 or 19 be taken into account in fixing the market value of such plot.]

(*2*) No person shall be entitled to compensation in respect of any damage, loss or injury resulting from any action taken by the local authority under the provisions of this section or of section 43, except in respect of a building or work begun or a contract entered into before the date on which the local authority published a declaration of intention to make a scheme, and only in so far as such building or

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[1] These words were inserted by Bom. 13 of 1920, s. 2 (*a*).

[2] These words were substituted for the words "as may be consistent with the scheme" by Bom. 14 of 1946, s. 3 (*a*) (*i*).

[3] These words were substituted for the words "scheme : but if" by Bom. 21 of 1938, s. 7 (*i*) (*a*).

[4] This clause was substituted for the original clause (*c*), *ibid.*, s. 7 (*i*) (*b*).

[5] These words were substituted for the words "which is such as to contravene the scheme" by Bom. 14 of 1946, s. 3 (*a*) (*ii*)

[6] This clause was added by Bom. 13 of 1920, s. 2 (*b*).

work has proceeded at the time of the publication of the declaration of intention to make a scheme :

[1][Provided that such claim to compensation in the excepted cases shall be subject to the conditions of any agreement entered into between such person and the local authority.]

(*3*) The restrictions imposed by this section shall cease to operate in the event of the [2][Provincial Government] refusing to sanction the making of a town-planning scheme, or in the event of the sanction of the [2][Provincial Government] for the making of such scheme lapsing, or in the event of the [2][Provincial Government] refusing to sanction the draft scheme [3][or the final scheme, or in the event of the withdrawal of the scheme under section 40A.]

Power to Provincial Government to suspend rule, bye-law, Act, etc.

[4][**15AA.** (*1*) When a local authority has published a declaration of intention to make a scheme, the Provincial Government may, by order published in the *Official Gazette*, suspend, to such extent only as may be necessary for the proper carrying out of the scheme any rule having the force of law, by-law, Act, or other provision which is in force in the area proposed to be included in the scheme and which the Provincial Legislature or the Provincial Government, or a local authority within the Province is competent to amend.

(*2*) Any order issued under sub-section (*1*) shall cease to operate in the event of the Provincial Government refusing to sanction the making of the town planning scheme, or in the event of the sanction of the Provincial Government for the making of such scheme lapsing, or in the event of the Provincial Government refusing to sanction the draft scheme or the final scheme, or in the event of the withdrawal of the scheme under section 40A, or in the event of the coming into force of the final scheme.]

Town planning schemes in built up areas.

[5][**15A.** (*1*) Whenever a local authority proposes to undertake the reclamation of a locality which is unhealthy or the laying out of a street or the construction of a park or of pleasure or recreation ground in virtue of the powers conferred upon it by any law for the time being in force in any area within its limits which is already built upon and the Provincial Government is of opinion that such reclamation, laying out or construction will specially benefit the owners of buildings and lands within such area, the Provincial Government may, by notification in the *Official Gazette*, apply to such area the provisions of Chapters III and IV with such modifications and adaptations as the Provincial Government may deem fit :

Provided that in calculating the amount of the increment under section 17 or in estimating the market value of a plot under section 19, the amount of such increment or such market value shall be calculated or estimated as at the date of the resolution of the local authority proposing the scheme under this section.

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[1] This proviso was added by Bom. 14 of 1946, s. 3 (*b*).

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[3] These words, figures and letter were added by Bom. 21 of 1938, s. 7 (*ii*).

[4] Section 15AA was inserted by Bom. 14 of 1946, s. 4.

[5] New section 15A was inserted by Bom. 21 of 1938, s. 8.

BOMBAY ACT No. I OF 1915.[1]

[THE BOMBAY TOWN PLANNING ACT, 1915.]

[*6th March 1915*]

Repealed in part and amended by Bom. 2 of 1919.
Amended by Bom. 13 of 1920 ;
" " " 16 of 1920.
Adapted and modified by the Adaptation of Indian Laws Order in Council.
Amended by Bom. 21 of 1938 ;
" " " 4 of 1942 ; *
" " " 14 of 1946 ;
" " " 55 of 1948 ;
" " " 69 of 1948 ;
" " " 13 of 1949 ;
" " " 59 of 1949 ;
" " " 8 of 1950.
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 28 of 1950 ;
" " " 19 of 1951.

An Act to provide for the making and execution of town planning schemes.

WHEREAS it is expedient that the development of certain areas should be regulated with the general object of securing proper sanitary conditions, amenity and convenience to the persons living in such areas and in neighbouring areas ;

AND WHEREAS the previous sanction of the Governor General required by section 5 of the [2]Indian Councils Act, 1892, has been obtained for the passing of this Act ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. (*1*) This Act may be called the Bombay Town Planning Act, 1915. Short title and extent.

[3][(*2*) It shall extend to the whole of the [4][State] of Bombay except the City of Bombay.

(*3*) The [5][State] Government may, on a written application of the Municipal Corporation of the City of Bombay, extend by notification in the *Official Gazette*, this Act to the City of Bombay or any part thereof, from such date as may be appointed in this behalf :

Provided that such application has been made after it has been assented to by more than half the total number of the councillors of the Corporation.]

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1913, Part VII, page 845 ; for Report of Select Committee, *see ibid*, 1914, Part VII, page 510 ; and for Proceedings in Council *see ibid*, 1914, Part VII, page 78 ; *ibid*, 1915, page 11.

[2] *See* now the Government of India Act, 1935.

[3] Sub-sections (*2*) and (*3*) were substituted for the original sub-section (*2*) by Bom. 21 of 1938, s. 2.

[4] This word was substituted for the word " Province " by the Adaptation of Laws Order, 1950.

[5] This word was substituted for the word " Provincial ", *ibid*.

* This Act was repealed and s. 2 thereof was re-enacted by Bom. 23 of 1947, s. 2.

Interpretation-clause.

2. In this Act unless there is anything repugnant in the subject or context—

[1][(*1a*) "land" includes benefits to arise out of land and things attached to the earth or permanently fastened to any thing attached to the earth ;]

(*a*) "local authority" means a Municipality or, where there is no Municipality, a committee appointed for a notified area under the provisions of Chapter XIV of the Bombay District Municipal Act, 1901, as modified by this Act [2][or a panchayat established under the Bombay Village Panchayats Act, 1933 ;] Bom. III of 1901.

(*b*) "prescribed" means prescribed by rules made under this Act ;

(*c*) "owner" includes an owner in severalty, in common or joint ; and includes also an occupant as defined in clause (*16*) of section 3 of the Bombay Land Revenue Code, 1879 ; Bom. VI of 1933. Bom. V of 1879.

(*d*) "plot" means a continuous portion of land held in one ownership ; [3]* * *

[4][(*dd*) "preliminary scheme" means a scheme relating to a town planning prepared by the arbitrator under section 44B ;]

(*e*) "reconstituted plot" means a plot which is in any way altered by the making of a town-planning scheme [5]* * ;

Explanation.—"Altered" includes alteration of ownership.

(*f*) "scheme" includes a plan relating to a town-planning scheme.

Contents of planning scheme.

3. A town-planning scheme may make provision for any of the following matters :—

(*a*) the construction, diversion, alteration and stopping up of streets, roads and communications ;

(*b*) the construction, alteration, and removal of buildings, bridges and other structures ;

(*c*) the plotting out of land as building sites whether such land is intended to be used for building purposes in the immediate future or not ;

(*d*) the allotment or reservation of land for roads, open spaces, gardens, recreation grounds, schools, markets and public purposes of all kinds ;

(*e*) drainage inclusive of sewage and of surface drainage and sewage disposal ;

(*f*) lighting ;

(*g*) water supply ;

(*h*) the preservation of objects of historical interest or natural beauty and of buildings actually used for religious purposes or regarded by the public with special religious veneration ;

(*i*) the imposition of conditions and restrictions in regard to the open space to be maintained about buildings, the number, height and character of buildings allowed in specified areas and the purposes to which buildings or specified areas may or may not be appropriated ;

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[1] This clause was inserted by Bom. 19 of 1951, s. 2.

[2] These words and figures were added by Bom. 55 of 1948, s. 2.

[3] The words "other than land used, allotted or reserved for any public or municipal purpose" were deleted by Bom. 21 of 1938, s. 3 (*a*).

[4] This clause was inserted by Bom. 19 of 1951 s. 2.

[5] The words "otherwise than by the severance of land used, allotted or reserved for any public or municipal purpose" were deleted by Bom. 21 of 1938, s. 3 (*b*).

(*j*) the suspension so far as may be necessary for the proper carrying out of the scheme, of any rule having the force of law, bye-law, Act, or other provision [1]* * * which is in force in the area included in the scheme :

[2][Provided that it shall not be lawful to suspend in any such area any Act of Parliament [3][of the United Kingdom] or, [4][any Indian law relating to any of the matters enumerated in List I in the Seventh Schedule to the [5][Constitution] ;].

(*k*) such other matter not inconsistent, with the objects of this Act as may be prescribed.

Disputed ownership.

4. (*1*) Where there is a disputed claim as to the ownership of any piece of land included in an area in respect of which [6][the local authority has declared, under section 9, its intention to make a town planning scheme] and any entry in the record-of-rights or mutation register relevant to such disputed claim is inaccurate or inconclusive, an enquiry may be held [7][on an application being made by the local authority or the Arbitrator at any time prior to the date on which the Arbitrator draws up the final scheme under clause 10 of section 30] by such officer as the [8][[9][State] Government] [10]* * * * may appoint for the purpose of deciding who shall be deemed to be the owner for the purposes of this Act.

(*2*) Such decision shall not be subject to appeal but it shall not operate as a bar to a regular suit.

(*3*) Such decision shall, in the event of a Civil Court passing a decree which is inconsistent therewith, be corrected, modified or rescinded in accordance with such decree as soon as practicable after such decree has been brought to the notice of the local authority either by the Civil Court or by some person affected by such decree.

Right of entry.

5. For the purpose of the preparation, making, or execution of any town-planning scheme any person authorized by the local authority or any public servant or person duly appointed or authorised under this Act may, after giving such notice as may be prescribed to the owner, occupier or other person interested in any land, enter upon, survey and mark out such land and do all acts necessary for such purpose.

Powers of local authority to borrow money and to make and execute a town-planning scheme.

6. (*1*) A local authority as defined in this Act shall be deemed to be a local authority as defined in the [11]Local Authorities Loans Act, 1914, for the purpose of borrowing money under that Act, and the making and execution of a town-planning scheme shall be deemed to be a work which such local authority is legally authorised to carry out.

IX of 1914.

(*2*) Any expenses incurred by a local authority under this Act or any town-planning scheme made thereunder may be defrayed out of its funds.

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[1] The words "under whatever authority made" were repealed by section 3 and Schedule II of the Bombay Repealing and Amending Act, 1919 (Bom. 2 of 1919).

[2] This proviso was added by section 2 and Schedule I, Part II, *ibid.*

[3] These words were inserted by the Adaptation of Laws Order, 1950.

[4] These words substituted for the words "without the sanction of the Governor-General, any Act of the Governor-General in Council" by the Adaptation of Indian Laws Order in Council.

[5] This word was substituted for the words and figures "Government of India Act, 1935" by the Adaptation of Laws Order, 1950.

[6] These words and figures were substituted for the words "any of the provisions of this Act are to be applied" by Bom. 21 of 1938, s. 4 (*1*).

[7] These words and figures were added, *ibid*, s. 4 (*2*).

[8] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[9] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[10] The words "in any area for which a municipal corporation is constituted under any enactment or the Commissioner elsewhere" were deleted by Bom. 28 of 1950, s. 4, Schedule.

[11] Central Acts.

Notified areas.

7. Notwithstanding anything contained in sub-section (*3*) of section 187 of the Bombay District Municipal Act, 1901, the [1][2][State] Government] may declare any specified area, for which it is proposed to make a town-planning scheme, to be a notified area. Bom. III of 1901.

CHAPTER II.

DECLARATION OF INTENTION TO MAKE A SCHEME AND PREPARATION OF DRAFT SCHEME.

Land in respect of which a town-planning scheme may be made.

8. (*1*) A town-planning scheme may be made in accordance with the provisions of this Act in respect of any land which is in course of development or is likely to be used for building purposes.

(*2*) Where it appears to the [1][2][State] Government] that a piece of land already built upon, or a piece of land not likely to be used for building purposes is so situated with respect to any land which is in course of development or likely to be used for building purposes that it ought to be included in any town-planning scheme intended to be made with respect to the last-mentioned land, the [1][2][State] Government] may sanction the making of a scheme including such piece of land as aforesaid, and providing for the demolition or alteration of any building thereon so far as may be necessary for carrying the scheme into effect.

(*3*) The expression "land likely to be used for building purposes" shall include any land likely to be used as or for the purpose of providing, open spaces, roads, streets, parks, pleasure or recreation grounds, or for the purpose of executing any work upon or under the land incidental to a town-planning scheme, whether in the nature of a building work or not, and the decision of the [1][2][State] Government] as to whether land is likely to be used for building purposes or not shall be final.

No town-planning schemes for areas for which housing schemes sanctioned under Bom. LXIX of 1948.

[3][**8A.** Notwithstanding anything contained in this Act, no town-planning scheme shall be made for any area for which a housing scheme has been sanctioned under the provisions of the Bombay Housing Board Act, 1948.] Bom. LXIX of 1948.

Powers of a local authority to resolve on a declaration of intention to make a scheme and of the [2] [State] Government to sanction such declaration.

9. (*1*) The local authority having jurisdiction over any such land as is referred to in section 8 may by resolution declare its intention to make a town-planning scheme in respect of the whole or any part of such land and of any land which is in the vicinity of such land, but which is not included [4][in the area over which any other local authority has jurisdiction] provided that for the making of such scheme the sanction of tne [1][2][State] Government] shall be necessary.

(*2*) Within twenty-one days from the date of such declaration (hereinafter referred to as a declaration of intention to make a scheme), the local authority shall despatch a copy thereof for publication in the [5][*Official Gazette*] and shall publish it in the prescribed manner and shall apply to the [1][2][State] Government] for sanction for the making of such scheme.

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[1] The words "Provincial Government" were substituted for the words "Governor-in-Council" by the Adaptation of Indian Laws Order in Council.

[2] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] This section was inserted by Bom. 69 of 1948, s. 75, Sch.

[4] These words were substituted for the original by Bom. 55 of 1948, s. 3.

[5] The word "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

(*3*) With its application for such sanction the local authority shall send to the [1][[2][State] Government] a plan showing the area which it proposes to include in the town-planning scheme and the surrounding lands.

(*4*) A copy of such plan shall be open to the inspection of the public at all reasonable hours at the head office of the local authority.

(*5*) If within one month from the date of such publication in the [3][*Official Gazette*] any person likely to be affected by such scheme communicates in writing to the [1][[2][State] Government] any objection or suggestion relating to such scheme the [1][[2][State] Government] shall consider such objection or suggestion.

(*6*) After receiving such application and after making such inquiry as [4][it] may think fit, the [1][[2][State] Government] may, by notification in the [3][*Official Gazette*], either sanction the making of such scheme with or without modifications and subject to such conditions as [4][it] may think fit to impose, or [4][it] may by a similar notification refuse to give sanction.

Preparation and publication of draft scheme.

10. (*1*) Within twelve months from the date of the notification sanctioning the making of a town-planning scheme the local authority shall in consultation with the owners prepare, and publish in the prescribed manner, a draft scheme for the area in respect of which sanction has been given.

[5][Provided that on application made by the local authority in that behalf, the [2][State] Government may from time to time, by notification in the *Official Gazette*, extend the said period of twelve months, but the aggregate period of such extensions shall not exceed twelve months.]

(*2*) If such publication is not made by the local authority within [6][the period specified in sub-section (*1*), or where the said period is extended under the proviso thereto, such extended period], the [1][[2][State] Government] [7]* * * may in consultation with the owners prepare, and publish in the prescribed manner, a draft scheme for the area in respect of which sanction has been given within a further period of nine months.

Lapsing of sanction.

(*3*) If such publication is not made by the [1][[2][State] Government] or the Commissioner, as the case may be, within the further period specified in sub-section (*3*), the sanction of the [1][[2][State] Government] for the making of such town planning scheme shall lapse, and until a period of three years has elapsed from the date of such sanction it shall not be competent to the local authority to apply for fresh sanction for the making of any town-planning scheme for the same area or for any part of it.

Contents of draft scheme.

11. The draft scheme shall contain the following particulars :—

(*a*) the area, ownership and tenure of each original plot;

(*b*) the land allotted or reserved under clause (*d*) of section 3 with a general indication of the uses to which such land is to be put [8][and the terms and conditions subject to which such land is to be put to such uses] ;

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[4] The word "it" was substituted for the word "he", *ibid.*

[5] This proviso was added by Bom. 14 of 1946, s. 2 (*i*).

[6] These words, figure and brackets were substituted for the words "twelve months from the date of such notification" *ibid*, s. 2 (*ii*).

[7] The words "in any area for which a municipal corporation is constituted under any enactment or the Commissioner elsewhere" deleted by Bom. 28 of 1950, s. 4, Schedule.

[8] These words were added by Bom. 21 of 1938, s. 5.

(*c*) the extent to which it is proposed to alter the boundaries of original plots;

(*d*) an estimate of the net cost of the scheme to be borne by the local authority;

(*e*) a full description of all details of the scheme under such clauses of section 3 as may be applicable; and

(*f*) any other prescribed particluars.

Reconstituted plots.

12. (*1*) In the draft scheme the size and shape of every reconstituted plot shall be so determined as to render it, so far as may be, suitable for building purposes.

(*2*) In order to render original plots more suitable for building purposes the draft scheme may contain proposals—

(*a*) to form a reconstituted plot by the alteration of the boundaries of an original plot,

(*b*) to provide with the consent of the owners that two or more original plots each of which is held in ownership in severality or in joint onwership shall hereafter, with or without alteration of boundaries, be held in ownership in common as a reconstituted plot,

(*c*) to allot a plot to any owner dispossessed of land in furtherance of the scheme, and

(*d*) to transfer the ownership of a plot from one person to another.

Objection to the draft scheme to be considered.

13. If within one month from the date of publication of the draft scheme any person affected by such scheme communicates in writing to the local authority any objection relating to such scheme the local authority shall consider such objection and may, at any time before submitting the draft scheme to the [1][[2][State Government] as hereinafter provided, modify such scheme as it thinks fit.

Power of the [2][State] Government to sanction a draft scheme.

14. (*1*) The local authority shall [3][within the period prescribed] submit the draft scheme with any modifications which it may have made therein together with the objections which may have been communicated to it to the [1][[2][State] Government] and shall at the same time aplpy for [4][its] sanction.

(*2*) After receiving such application and after making such inquiry as [5][it] may think fit, the [1][[2][State] Government] may [6][within the period prescribed] by notification in the [7][*Official Gazette*] either sanction such scheme with or without modifications and subject to such conditions as [5][it] may think fit to impose, or [8]* * * refuse to give sanction.

(*3*) If the [1][[2][State] Government] sanctions such scheme [5][it] shall in such notification state at what place and time the draft scheme shall be open to the inspection of the public.

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[1] The words "Provincial Government" were substitued for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] These words were substituted for the word "then" by Bom. 21 of 1938, s. 6 (*a*)

[4] The word "its" was substituted for the word "his" by the Adaptation of Indian Law Order in Council.

[5] The word "it" was substituted for the word "he" *ibid.*

[6] These words were inserted by Bom. 21 of 1938, s. 6 (*b*) (*i*).

[7] The words "*Official Gazette*" were substitued for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[8] The words "he may by a similar notification" were omitted by Bom. 21 of 1938. s. 6 (*b*) (*ii*).

15. (*1*) When a local authority has published a declaration of intention to make a scheme— Restrictions after declaration.

(*a*) no person shall within the area included in the scheme erect or proceed with any building or work [1][or remove, pull down or alter any building or part of a building or remove any earth, stone or material] unless such person has applied for and obtained the necessary permission which shall be contained in a commencement certificate granted by the local authority in the form prescribed ;

(*b*) the local authority on receipt of such application shall at once furnish the applicant with a written acknowledgment of its receipt, and after enquiry may either grant or refuse such certificate or grant it subject to such conditions [2][as the local authority may, with the previous approval of the Provincial Government, think fit to impose], [3][provided that if an Arbitrator has been appointed under section 29 the local authority shall not grant such certificate without obtaining the previous concurrence of such Arbitrator, unless such Arbitrator fails to communicate his decision in the matter to the local authority within two months from the date of the despatch of the application to him by the local authority. If] the local authority communicates no decision to the applicant within three months from the date of such acknowledgment he shall be deemed to have been granted such certificate ;

[4][(*c*) if any person contravenes the provisions contained in clause (*a*) or clause (*b*),—

(*i*) the local authority may direct such person by notice in writing to stop any work in progress, and after making enquiry in the prescribed manner, remove, pull down or alter any building or other work in the area included in the scheme, [5][in respect of which such contravention is made,] and

(*ii*) such person shall, on being convicted for such contravention, be liable to fine which may extend to Rs. 1,000 and in the case of a continuing contravention of the aforesaid provisions, he shall be liable to an additional fine which may extend to Rs. 10 for each day during which such contravention continues after conviction for the first such contravention ;]

(*d*) any expenses incurred by the local authority under clause (*c*) shall be a sum due to the local authority under this Act from the person in default ;

[6][(*e*) any diminution in the value of an original plot occasioned by any contravention of clause (*a*) or clause (*b*) shall, notwithstanding anything contained in section 16, 17 or 19 be taken into account in fixing the market value of such plot.]

(*2*) No person shall be entitled to compensation in respect of any damage, loss or injury resulting from any action taken by the local authority under the provisions of this section or of section 43, except in respect of a building or work begun or a contract entered into before the date on which the local authority published a declaration of intention to make a scheme, and only in so far as such building or

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[1] These words were inserted by Bom. 13 of 1920, s. 2 (*a*).

[2] These words were substituted for the words " as may be consistent with the scheme " by Bom. 14 of 1946, s. 3 (*a*) (*i*).

[3] These words were substituted for the words " scheme : but if " by Bom. 21 of 1938, s. 7 (*i*) (*a*).

[4] This clause was substituted for the original clause (*c*), *ibid.*, s. 7 (*i*) (*b*).

[5] These words were substituted for the words " which is such as to contravene the scheme " by Bom. 14 of 1946, s. 3 (*a*) (*ii*)

[6] This clause was added by Bom. 13 of 1920, s. 2 (*b*).

work has proceeded at the time of the publication of the declaration of intention to make a scheme :

[1][Provided that such claim to compensation in the excepted cases shall be subject to the conditions of any agreement entered into between such person and the local authority.]

(*3*) The restrictions imposed by this section shall cease to operate in the event of the [2][Provincial Government] refusing to sanction the making of a town-planning scheme, or in the event of the sanction of the [2][Provincial Government] for the making of such scheme lapsing, or in the event of the [2][Provincial Government] refusing to sanction the draft scheme [3][or the final scheme, or in the event of the withdrawal of the scheme under section 40A.]

Power to Provincial Government to suspend rule, bye-law, Act, etc.

[4][**15AA.** (*1*) When a local authority has published a declaration of intention to make a scheme, the Provincial Government may, by order published in the *Official Gazette*, suspend, to such extent only as may be necessary for the proper carrying out of the scheme any rule having the force of law, by-law, Act, or other provision which is in force in the area proposed to be included in the scheme and which the Provincial Legislature or the Provincial Government, or a local authority within the Province is competent to amend.

(*2*) Any order issued under sub-section (*1*) shall cease to operate in the event of the Provincial Government refusing to sanction the making of the town planning scheme, or in the event of the sanction of the Provincial Government for the making of such scheme lapsing, or in the event of the Provincial Government refusing to sanction the draft scheme or the final scheme, or in the event of the withdrawal of the scheme under section 40A, or in the event of the coming into force of the final scheme.]

Town planning schemes in built up areas.

[5][**15A.** (*1*) Whenever a local authority proposes to undertake the reclamation of a locality which is unhealthy or the laying out of a street or the construction of a park or of pleasure or recreation ground in virtue of the powers conferred upon it by any law for the time being in force in any area within its limits which is already built upon and the Provincial Government is of opinion that such reclamation, laying out or construction will specially benefit the owners of buildings and lands within such area, the Provincial Government may, by notification in the *Official Gazette*, apply to such area the provisions of Chapters III and IV with such modifications and adaptations as the Provincial Government may deem fit :

Provided that in calculating the amount of the increment under section 17 or in estimating the market value of a plot under section 19, the amount of such increment or such market value shall be calculated or estimated as at the date of the resolution of the local authority proposing the scheme under this section.

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[1] This proviso was added by Bom. 14 of 1946, s. 3 (*b*).

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[3] These words, figures and letter were added by Bom. 21 of 1938, s. 7 (*ii*).

[4] Section 15AA was inserted by Bom. 14 of 1946, s. 4.

[5] New section 15A was inserted by Bom. 21 of 1938, s. 8.

(*2*) The Provincial Government shall, before issuing a notification under sub-section (*1*), give the owners or occupiers of buildings and lands in the area affected, an opportunity of showing cause why such notification should not be issued.]

CHAPTER III.

FINANCE.

Costs of the scheme.

16. (*1*) The costs of a town-planning scheme shall include—

(*a*) all sums payable by the local authority under the provisions of this Act which are not specifically excluded from the costs of the scheme;

(*b*) all sums spent or estimated to be spent by the local authority in the making and in the execution of the scheme;

[1][(*bb*) all sums payable as compensation for land allotted or reserved for any public or municipal purpose which is solely beneficial to the owners or residents within the area of the scheme;

(*bc*) such portion of the sums, payable as compensation for land allotted or reserved for any public or municipal purpose which is beneficial partly to the owners or residents within the area of the scheme and partly to the general public, as is attributable to the benefit accruing to the owners or residents within the area of the scheme from such allotment or reservation];

(*c*) all legal expenses of the local authority incurred in the making and in the execution of the scheme; and

(*d*) any amount by which the total of the values of the original plots exceeds the total of the values of the plots included in the final scheme, each of such plots being estimated at its market value at the date of the declaration of intention to make a scheme with all the buildings and works thereon at that date and without reference to improvements contemplated in the scheme other than improvements due to the alteration of its boundaries.

(*2*) If in any case the total of the values of the plots included in the final scheme exceeds the total of the values of the original plots, each of such plots being estimated in the manner provided in clause (*d*) of sub-section (*1*), then the amount of such excess shall be deducted in arriving at the costs of the scheme, as defined in sub-section (*1*).

Calculation of increment.

17. [2][For the purposes of this Act the increments shall be deemed to be the amount by which at the date of the declaration of intention to make a scheme the market value of a plot included in the final scheme estimated on the assumption that the scheme has been completed would exceed at the same date the market value of the same plot estimated without reference to improvements contemplated in the scheme :]

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[1] These clauses were inserted by Bom. 21 of 1938, s. 9.

[2] This paragraph was substituted by Bom. 13 of 1920, s. 3.

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Provided that in estimating such values the value of buildings or other works erected or in the course of erection on such plot shall not be taken into consideration.

Contribution towards the costs of the scheme.

18. (*1*) The costs of the scheme shall be met wholly or in part by a contribution to be levied by the local authority on each plot included in the final scheme calculated in proportion to the increment which is estimated to accrue in respect of such plot by the Tribunal of Arbitration:

Provided that—

(*i*) no such contribution shall exceed half the increment estimated by the Tribunal of Arbitration to accrue in respect of such plot; [1]*

(*ii*) where a plot is subject to a mortgage with possession or to a lease, the Tribunal of Arbitration shall determine in what proportion the mortgagee or lessee on the one hand and the mortgagor or lessor on the other hand shall pay such contribution;

[2][(*iii*) no such contribution shall be levied on a plot used, allotted or reserved for a public or municipal purpose which is solely for the benefit of owners or residents within the area of the scheme; and

(*iv*) the contribution levied on a plot used, allotted or reserved for a public or municipal purpose which is beneficial partly to the owners or residents within the area of the scheme and partly to the general public shall be calculated in proportion to the benefit estimated to accrue to the general public from such use, allotment or reservation.]

Owner primarily liable for contribution.

(*2*) The owner of each plot included in the final scheme shall be primarily liable for the payment of the contribution leviable in respect of such plot.

Certain amount to be added to or deducted from the contribution leviable from a person.

19. The amount by which the total value of the plots included in final scheme with all the buildings and works thereon allotted to a person falls short of or exceeds the total value of the original plots with all the buildings and works thereon of such person shall be deducted from or added to, as the case may be, the contributions leviable from such person, each of such plots being estimated at its market value at the date of the declaration of intention to make a scheme and without reference to improvements contemplated in the scheme other than improvements due to the alteration of its boundaries.

Transfer of right from original to reconstituted plot, or extinction of such right.

20. Any right in an original plot which in the opinion of the arbitrator is capable of being transferred wholly or in part, without prejudice to the making of a town-planning scheme, to a reconstituted plot shall be so transferred and any right in an original plot which in the opinion of the arbitrator is not capable of being so transferred shall be extinguished:

Provided that an agricultural lease shall not be transferred from an original plot to a reconstituted plot without the consent of all the parties to such lease.

Compensation in respect of property or right injuriously affected by scheme.

21. The owner of any property or right which is injuriously affected by the making of a town-planning scheme shall, if he makes a claim before the arbitrator within the prescribed time be entitled to obtain compensation in respect thereof from the local authority or from any person benefited or partly from the local authority and partly from such person, as the Tribunal of Arbitration may in each case determine:

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[1] The word "and" was omitted by Bom. 21 of 1938, s. 10 (*i*).

[2] These provisos were inserted, *ibid.*, s. 10 (*ii*).

Provided that the value of such property or right shall be held to be its market value at the date of the declaration of intention to make a scheme without reference to improvements contemplated in the scheme.

Exclusion or limitation of compensation in certain cases.

22. (*1*) Where property or a private right of any sort is alleged to be injuriously affected by reason of any provisions contained in a town-planning scheme, no compensation shall be paid in respect thereof if or in so far as the provisions are such as would have been enforceable without compensation under any rule having the force of law, by-law or Act in force at the time.

(*2*) Property or a private right of any sort shall not be deemed to be injuriously affected by reason of any provisions inserted in a town-planning scheme, which, with a view to securing the amenity of the area included in such scheme or any part thereof, impose any conditions and restrictions in regard to any of the matters specified in clause (*i*) of section 3.

Provision for case in which amount payable to owner exceeds amount due from him.

23. If the owner of an original plot is not provided with a plot in the final scheme, or if the contribution to be levied from him under section 18 is less than the total amount to be deducted therefrom under any of the provisions of this Act, the net amount of his loss shall be payable to him by the local authority in cash, or in such other way as may be agreed upon by the parties.

Provision for case in which value of developed plot is less than amount payable by owner.

24. (*1*) If from any cause the total amount which would be due to the local authority under the provisions of this Act from the owner of a plot to be included in the final scheme exceeds the value of such plot estimated on the assumption that the scheme has been completed, the arbitrator shall, at the request of the local authority, direct the owner of such plot to make payment to the local authority of the amount of such excess.

(*2*) If such owner fails to make such payment within the prescribed period, the arbitrator shall, if the local authority so requests, acquire the original plot of such defaulter and apportion the compensation among the owner and other persons interested in the plot on payment by the local authority of the value of such plot estimated at its market value at the date of the declaration of intention to make a scheme and without reference to improvements contemplated in the scheme ; and thereupon the plot included in the final scheme shall vest absolutely in the local authority, free from all encumbrances but subject to the provisions of this Act :

Provided that the payment made by the local authority on account of the value of the original plot shall not be included in the costs of the scheme.

Payment by adjustment of account.

25. All payments due to be made to any person by the local authority under this Act shall as far as possible, be made by an adjustment in such person's account with the local authority in respect of the plot concerned or of any other plot in which he has an interest and failing such adjustment shall be paid in cash or in such other way as may be agreed upon by the parties.

Payment of net amount due to local authority.

26. (*1*) The net amount payable under the provisions of this Act by the owner of a plot included in the final scheme may at the option of the contributor be paid in one sum or such instalments including charges for interest as shall be fixed by the local authority with the sanction of the [1][[2][State] Government] [3]* * *

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] The words "in any area for which a municipal corporation is constituted under any enactment or the Commissioner elsewhere" were deleted by Bom. 28 of 1950, s. 4, Schedule.

(*2*) Where more than one plot included in the final scheme is in the same ownership the net amount payable by such owner under the provisions of this Act shall be distributed over his several plots in proportion to the increment which is estimated to accrue in respect of each plot unless the owner and the local authority agree to a diffetent method of distribution.

Power of local authority to make agreements.

27. (*1*) A local authority shall be competent to make any agreement with any person in respect of any matter which is to be provided for in a town-planning scheme, subject to the power of the [1][[2][State] Government] to modify or disallow such agreement and, unless it is otherwise expressly provided therein, such agreement shall take effect on and after the day on which the town-planning scheme comes into force.

(*2*) Such agreement shall not in any way affect the duties of the arbitrator or of the Tribunal of Arbitration as described in Chapter IV or the rights of third parties, but it shall be binding on the parties to the agreement notwithstanding any decision that may be passed by the arbitrator or by the Tribunal of Arbitration :

Provided that if the agreement be modified by Government, either party shall have the option of avoiding it if he so elects.

Recovery of arrears.

28. Any sum due to the local authority under this Act which is not paid on the day when it becomes due shall be recovered by the Collector, according to law and under the rules for the time being in force for the recovery of arrears of land-revenue, on application being made to him by the local authority.

CHAPTER IV.

The Arbitrator and the Tribunal of Arbitration.

Appointment of arbitrator.

29. After a draft scheme has been sanctioned the [1][[2][State] Government] shall appoint an arbitrator with sufficient establishment whose duties shall be as hereinafter provided.

Duties of the arbitrator.

30. In accordance with the prescribed procedure the arbitrator shall—

(*1*) after notice given by him in the prescribed manner define and [3]* * * demarcate the areas allotted to, or reserved for, [4][public or municipal purposes] and the reconstituted plots ;

(*2*) after notice given by him in the prescribed manner determine, in a case in which a reconstituted plot is to be allotted to persons in ownership in common, the shares of such persons ;

(*3*) fix the difference between the total of the values of the orignnal plots and the total of the values of the plots included in the final scheme, in accordance with the provisions contained in clause (*d*) of sub-section (*1*) of section 16 ;

[5][(*3A*) determine whether the areas used, allotted or reserved for public or municipal purposes are beneficial wholly or partly to the owners or residents within the area of the scheme ;]

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[1] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

[2] The word " State " was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[3] The words " where it is in his opinion necessary " were omitted by Bom. 21 of 1938, s. 11 (*a*) (*i*)

[4] These words were substituted for the words " the local authority ", *ibid*, s. 11 (*a*) (*ii*).

[5] This clause was inserted, *ibid*, s. 11 (*b*).

(*3B*) estimate the portion of the sums, payable as compensation for each plot used, allotted or reserved for a public or municipal purpose which is beneficial partly to the owners or residents within the area of the scheme and partly to the general public, which shall be included in the costs of the scheme;

(*3C*) calculate the contribution to be levied on each plot used, allotted or reserved for a public or municipal purpose which is beneficial partly to the owners or residents within the area of the scheme and partly to the general public in accordance with the provisions contained in proviso (*iv*) to section 18;

(*3D*) determine the amount of exemption, if any, from the payment of contribution that may be granted in respect of plots exclusively occupied for religious or charitable purposes;] .

(*4*) estimate the increment to accrue in respect of each plot included in the final scheme, in accordance with the provisions contained in section 17;

(*5*) calculate the proportion in which the increment of the plots included in the final scheme shall be liable to contribution to the costs of the scheme, in accordance with the provisions contained in section 18;

(*6*) calculate the contribution to be levied on each plot included in the final scheme;

(*7*) determine the amount to be deducted from or added to, as the case may be, the contributions leviable from a person, in accordance with the provisions contained in section 19;

(*8*) provide for the total or partial transfer of any right in an original plot to a reconstituted plot or provide for the extinction of any right in an original plot, in accordance with the provisions contained in section 20;

(*9*) estimate in reference to claims made before him, after notice given by him in the prescribed manner, the compensation to be paid to the owner of any property or right injuriously affected by the making of a town-planning scheme, in accordance with the provisions contained in section 21 and subject to the provisions contained in section 22;

(*10*) draw up in the prescribed form the final scheme in accordance with the draft scheme:

provided that—

(*i*) he may make variations from the draft scheme;

(*ii*) any variation estimated by him to involve an increase of ten per centum in the costs of the scheme as described in section 16 shall require the sanction of the [1][Provincial Government]:

Provided further that he shall make no substantial variation without the consent of the local authority and without hearing any objections that may be raised by the owners concerned; and that in the case of any substantial variation made by him the owners concerned shall have the right of appeal to the [1][Provincial Government].

Certain decisions of the arbitrator shall be final.

31. Except in matters arising out of clauses [2][(*3A*), (*3B*), (*3C*)], (*4*), (*5*), (*6*) and (*9*) of section 30, and subject to the provisos contained in clause (*10*) of section 30, every decision of the arbitrator shall be final and conclusive and binding on all persons.

[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] These figures, letters and brackets were inserted by Bom. 21 of 1938, s. 12.

Arbitrator shall make proposals in certain matters.

32. In matters arising out of clauses [1][(*3A*), (*3B*), (*3C*),] (*4*), (*5*), (*6*) and (*9*) of section 30, the arbitrator shall [2][determine] estimate or calculate what is required by such clauses to be [2][determined] estimated or calculated and shall forthwith make proposals on all such matters to the President of the Tribunal of Arbitration for the decision of such Tribunal.

Constitution of the Tribunal of Arbitration.

33. (*1*) The Tribunal of Arbitration shall consist of a President and two Assessors.

(*2*) The President shall, in [3][Greater Bombay], be a person who holds or has held office as a Judge of the High Court of Judicature, to be appointed by the Chief Justice, [4]* * * * * * * * * and elsewhere the District Judge.

[5][(*3*) The Assessors shall be appointed by the President and shall be such persons as in his opinion are impartial.]

[6]* * *

(*5*) The President and the Assessor shall be appointed members of the Tribunal of Arbitration for such period as may be required by such Tribunal to decide in connection with a particular town-planning scheme all matters arising out of clauses [1][(*3A*), (*3B*), (*3C*),] (*4*), (*5*), (*6*) and (*9*) of section 30.

(*6*) The [7][Provincial Government] may, if [8][it] thinks fit, remove for inability or misconduct or any other good and sufficient reason [9][an Assessor] appointed under sub-section (*3*) [10]* * *

(*7*) If any member of the Tribunal of Arbitration is removed or dies or refuses or neglects to act or becomes incapable of acting, the authority who appointed such member shall appoint forthwith a fit person to take the place of such member.

Arbitrator to assist Tribunal in advisory capacity and his remuneration.

[11][**33A.** (*1*) The Arbitrator shall be present at the proceedings before the Tribunal of Arbitration. He shall not be required to give evidence in such proceedings, but the President may require him to assist the Tribunal in an advisory capacity.

(*2*) When the Arbitrator is required under sub-section (*1*) to assist the Tribunal he shall, save where he is a salaried officer of Government, be entitled to such fees as Government may from time to time determine.]

Place where the Tribunal may sit.

34. The Tribunal of Arbitration may sit either at the Headquarters of the President or at any other place, within the local limits of his jurisdiction, which he may consider convenient for the decision of any matter before such Tribunal.

Right to appear by recognised agent.

35. Every party to any proceeding before the Tribunal of Arbitration shall be entitled to appear either in person or by his recognised agent.

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[1] These figures, letters and brackets were inserted by Bom. 21 of 1938, ss. 13 (*i*) and 14 (*c*).
[2] This word was inserted., *ibid.*, s. 13 (*ii*).
[3] These words were substituted for the original by Bom. 55 of 1948, s. 4.
[4] The words deleted by Bom. 55 of 1948, s. 2, have been omitted.
[5] Sub-section (*3*) was substituted for the original., *ibid.*, s. 14 (*a*).
[6] Sub-section (*4*) was deleted, *ibid.*, s. 14 (*b*).
[7] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.
[8] The word "it" was substituted for the word "he", *ibid.*
[9] These words were substituted for the words "the Assessor" by Bom. 21 of 1938, s. 14 (*d*) (*i*).
[10] The words "or the Arbitrator" were omitted, *ibid.*, s. 14 (*d*) (*ii*).
[11] This section was inserted, *ibid.*, s. 15.

Decision of questions of law and procedure and other questions.

36. All questions of law and procedure shall be decided by the President. All other questions shall be decided by the President and the two Assessors or by the majority of them.

Powers of the Tribunal to decide matters finally.

37. (*1*) After making such enquiry as the President may think fit the Tribunal of Arbitration may accept, modify, vary, or reject the proposals of the arbitrator and shall decide all matters arising out of clauses [1][(*3A*), (*3B*), (*3C*)], (*4*), (*5*), (*6*) and (*9*) of section 30.

(*2*) Every decision of the Tribunal of Aribtration shall be final and conclusive and binding on all persons.

Tribunal not a Court.

38. Nothing contained in this Act shall be deemed to constitute the Tribunal of Arbitration to be a Court.

Remuneration of arbitrator and Assessor and payment of incidental expenses of Tribunal.

39. (*1*) [2]* * * The President of the Tribunal of Arbitration, and the [3][Assessors] shall, save where they are salaried [4][Government officers], be entitled to such remuneration, either by way of monthly salary or by way of fees or partly in one way and partly in the other, as the [5][[6][State] Government] may from time to time determine.

(*2*) The salary of [7]* * * a President of the Tribunal of Arbitration or an Assessor who is a salaried [8][Government officer], and any remuneration payable under sub-section (*1*) [9][and fees payable to an Arbitrator under sub-section (*2*) of section 33A] and all expenses incidental to the working of the Tribunal of Arbitration shall, unless the [5][[6][State] Government] otherwise determines, be defrayed out of the funds of the local authority and shall be added to the costs of the scheme.

Final scheme.

40. (*1*) After the Tribunal of Arbitration has decided all matters arising out of clauses [10][(*3A*), (*3B*), (*3C*),] (*4*), (*5*), (*6*) and (*9*) of section 30, the arbitrator shall forward the final scheme through the local authority to the [5][[6][State] Government]. [11][On receipt of the final scheme, the [6][State] Government may, by notification in the *Official Gazette*, sanction the scheme or refuse to give such sanction, provided that in sanctioning the scheme the [6][State] Government may make such modifications as may in its opinion be necessary for the purposes of correcting an error, irregularity or informality.]

(*2*) [12][If Government sanctions such scheme, it shall be stated in such notification] where the final scheme is open to the inspection of the public and the price at which copies may be obtained and a date not earlier than one month after the publication of such notification shall be fixed as the date on which all liabilities created by the scheme shall take effect and the final scheme shall come into force :

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[1] These figures, letters and brackets were inserted by Bom. 21 of 1938, s. 16.
[2] The words "The arbitrator" were omitted, *ibid*, s. 17 (*i*) (*a*).
[3] This word was substituted for the word "Assessor", *ibid*, s. 17 (*b*).
[4] The words "Government officers" were substituted for the words "servants of the Crown" by the Adaptation of Laws Order, 1950.
[5] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.
[6] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[7] The words "an arbitrator" were omitted by Bom. 21 of 1938, s. 17 (*ii*) (*a*).
[8] These words were substituted for the words "servant of the Crown" by the Adaptation of Laws Order, 1950.
[9] These words, brackets, figures and letter were inserted by Bom. 21 of 1938, s. 17 (*ii*) (*b*).
[10] These figures, letters and brackets were inserted by Bom. 21 of 1938, s. 18 (*i*) (*a*).
[11] These words were substituted for the original words, *ibid*, s. 18 (*i*) (*b*).
[12] These words were substituted for the words "In such notification, it shall be stated", *ibid*, s. 18 (*ii*) (*a*).

[1][Provided that the [2][State] Government may from time to time postpone such date by such period not exceeding three months at a time as it thinks fit.]

(*3*) On and after the date fixed in such notification a town planning scheme shall have effect as if it were enacted in this Act.

Withdrawal of a scheme.

[3][**40A.** If at any time a representation is made to the Arbitrator by the local authority and a majority of the owners or the residents in the area that the scheme should be withdrawn, the Arbitrator shall, after inviting from all persons interested in the scheme objections to such representation, forward such representation, together with the objections, if any, to the [2][State] Government. After making such enquiry as it may think fit, the [2][State] Government may, if the scheme has not already come into force, by notification in the *Official Gazette*, direct that the scheme shall be withdrawn and upon such withdrawal no further proceedings shall be taken in regard to such scheme.]

Effect of final scheme.

41. On the day on which the final scheme comes into force—

(*a*) all lands required by the local authority shall, unless it is otherwise determined in such scheme, vest absolutely in the local authority free from all encumbrances ;

(*b*) all rights in original plots which have been reconstituted shall determine and the reconstituted plots shall become subject to the rights settled by the arbitrator.

Power of local authority to evict summarily.

42. On and after the day on which the final scheme comes into force any person continuing to occupy any land which he is not entitled to occupy under the final scheme may, in accordance with the prescribed procedure, be summarily evicted by the local authority.

Power to enforce scheme.

43. (*1*) On and after the day on which the final scheme comes into force the local authority may after giving the prescribed notice and in accordance with the provisions of the scheme—

(*a*) remove,pull down, or alter any building or other work in the area included in the scheme which is such as to contravene the scheme or in the erection or carrying out of which any provision of the scheme has not been complied with ;

(*b*) execute any work which it is the duty of any person to execute under the scheme in any case where it appears to the local authority that delay in the execution of the work would prejudice the efficient operation of the scheme.

(*2*) Any expenses incurred by a local authority under this section may be recovered from the persons in default in the manner hereinbefore provided for the recovery of sums due to the local authority under the provisions of this Act.

(*3*) If any question arises as to whether any building or wotk contravenes a town-planning scheme, or whether any provision of a town-planning scheme is not complied with in the erection or carrying out of any such building or work, that question shall be referred to the [4][[2][State] Government] [5]* * * and [6][its [7]* *] decision shall be final and conclusive and binding on all persons.

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[1] This proviso was inserted by Bom. 21 of 1938, s. 18 (*ii*) (*b*).

[2] The word " State " was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[3] This section was inserted, by Bom. 21 of 1938, s. 19.

[4] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

[5] The words " in the Greater Bombay or the Commissioner elsewhere " were deleted by Bom. 28 of 1950, s. 4, Schedule.

[6] The words " its or his " were substituted for the word " his " by the Adaptation of Indian Laws Order in Council.

[7] The words " or his " were omitted by Bom. 28 of 1950, Sch.

44. For the purposes of this Act an officer appointed under sub-section (*1*) of section 4, an arbitrator or a Tribunal of Arbitration may summon and enforce the attendance of witnesses including the parties interested or any of them and compel them to give evidence and compel the production of documents by the same means and, as far as possible, in the same manner as is provided in the case of a Civil Court by the Code of Civil Procedure, 1908. V of 1908. Power to compel attendance of witnesses.

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[1][CHAPTER IV-A.

SPLITTING OF SCHEMES INTO SECTIONS AND PRELIMINARY SCHEMES.

44A. After an arbitrator has been appointed under section 29, the local authority may apply to him to split up the draft scheme into different sections and to deal with each section separately as if each section were a separate draft scheme. The arbitrator may, after making such inquiry as he thinks fit, split the draft scheme into sections. Thereafter the provisions of the Act and the rules made thereunder shall, so far as may be, apply to each of such section as if it were a separate draft scheme. Powers of arbitrator to split draft scheme into separate sections.

44B. If a draft scheme or if any of such sections contains any of the following works— Arbitrator to prepare preliminary scheme.

(*i*) construction or alteration of bridges,

(*ii*) roads, open spaces, gardens and recreation grounds,

(*iii*) drainage, inclusive of sewage, surface drainage and sewage disposals,

(*iv*) water supply,

(*v*) any other work which in the opinion of the arbitrator is for a public purpose,

the arbitrator shall, on the application of the local authority, prepare in regard to such scheme or section in the prescribed manner a preliminary scheme in accordance with the provisions of section 30 :

Provided that it shall not be necessary for the arbitrator at this stage to exercise the powers referred to in clauses (*3*), (*3A*), (*3B*), (*3C*), (*3D*), (*4*), (*5*), (*6*), (*7*), (*9*) and (*10*) of section 30.

44C. (*1*) Where a local authority thinks that, in the interest of the public, it is necessary to undertake forthwith any of the works referred to in section 44B and included in a preliminary scheme, the local authority shall make an application through the arbitrator to the State Government to vest in it the land shown in the preliminary scheme. Power to hand over possession of land required for bridges, roads, etc.

(*2*) The State Government, if satisfied that it is urgently necessary in the public interest to empower the local authority to enter on the land for the purposes of executing any of the works aforesaid, may direct the arbitrator by notification in the *Official Gazette* to take possession of the land and may also fix the period during which the execution of the said works shall be completed :

Provided that the period so fixed may for sufficient reasons be extended from time to time.

(*3*) The arbitrator shall then give a notice in the prescribed manner to the person interested in the land the possession of which is to be taken by the arbitrator requiring him to give possession of his land to the arbitrator or any person authorised by him in this behalf within a period of one month from the date of the notice and if no possession is delivered within the period specified in the notice, the arbitrator shall

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[1] This Chapter was inserted by Bom. 19 of 1951, s. 3.

take possession of the land and shall hand over the land to the local authority. Such land shall thereupon, notwithstanding anything contained in section 40, vest absolutely in the local authority free from all incumbrances.

Commissioner or Magistrate to enforce surrender of land if not delivered.

44D. (*1*) If the arbitrator is opposed or impeded in taking possession of the land under section 44C, he shall request, in Greater Bombay, the Commissioner of Police, and elsewhere, the District Magistrate to enforce the surrender of the land, to the arbitrator. The Commissioner or the District Magistrate, as the case may be, shall take or cause to be taken such steps and use or cause to be used such force as may, in the opinion of such officer, be reasonably necessary for securing compliance, with the notice.

(*2*) For the avoidance of doubt, it is hereby declared that the power to take steps under sub-section (*1*) includes the power to enter upon any land or other property whatsoever.

Owner of land of which possession is taken entitled to interest.

44E. The owner of the land the possession of which is taken by the arbitrator under section 44C or 44D shall be entitled to an interest at the rate of 4 per cent. per annum on the amount of compensation payable to him under the Act in respect of the said land from the date on whch such possession is taken till the date on which the final scheme in which such land is included comes into force or till the land is restored to the owner under section 47C, as the case may be.

Application of Chapter to pending schemes.

44F. Notwithstanding anything contained in the foregoing provisions of this Chapter, it shall be lawful to any local authority to apply to the arbitrator for the splitting of any pending scheme into sections or for the preparation of a preliminary scheme in respect thereof, and on such application being made, the aforesaid provisions shall, so far as may be, apply to such scheme.

Explanation.—For the purposes of this section, a pending scheme shall mean a scheme in respect of which a declaration of its intention to make a scheme has been made by a local authority under sub-section (*1*) of section 9 before the date on which the Bombay Town Planning (Amendment) Act, 1951, comes into force, but in respect of which the final scheme has not been forwarded to the State Government for sanction under section 40.] Bom. XIX of 1951.

CHAPTER V.

MISCELLANEOUS.

Joint town-planning schemes.

45. (*1*) When two or more local authorities are of opinion that the interests of contiguous areas within their respective jurisdictions can best be served by the making of a joint town-planning scheme, and the [1][[2][State] Government] agrees with such opinion, a joint Town Planning Board shall be constituted.

(*2*) Such Board shall consist of representatives of each of the several local authorities and of persons nominated by the [1][[2][State] Government] in such proportion as may be prescribed.

(*3*) The representatives of the several local authorities shall be elected in the prescribed manner on dates appointed by the [1][[2][State] Government] [3]* * *

[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] The words "in any area for which a municipal corporation is constituted under any enactment and by the Commissioner elsewhere" were deleted by Bom. 28 of 1950, s. 4, Schedule.

(*4*) Such Board, when duly constituted, shall make a declaration of intention to make a joint town-planning scheme in respect of the contiguous areas in the manner provided in section 9 and thereafter the procedure shall follow all the provisions of this Act and such Board shall have all the powers and be liable to all the duties of a local authority under the provisions of this Act.

(*5*) The draft joint town-planning schen shall specify the parts of the scheme to be executed by the several local authorities in the several contiguous areas and the several parts of the scheme shall, when notified in the final scheme, have effect in the several contiguous areas as if they are separate schemes :

Provided that any part of a joint town-planning scheme may be executed jointly by two or more local authorities.

Vesting of property and rights of a local authority ceasing to exist or ceasing to have jurisdiction.

[1][**45A.** When any local authority ceases to exist or ceases to have jurisdiction over any area included in a town-planning scheme the property and rights vested in such local authority under this Act shall, subject to all charges and liabilities affecting the same, vest in such other local authority or authorities as the [2][[3][State] Government] may, with the consent of such authority or authorities, by notification in the [4][*Official Gazette*], direct ; and such local authority or each one of such local authorities shall have all the powers under this Act in respect of such scheme or such part of a scheme as comes within its jurisdiction which the local authority ceasing to exist or ceasing to have jurisdiction had.]

Power to vary a scheme on the ground of error, irregularity or informality

[5][**45B.** (*1*) If after the final scheme has come into force, the local authority considers that the scheme is defective on account of an error, irregularity or informality, the local authority may apply in writing to the [3][State] Government for the variation of the scheme.

(*2*) If on receiving such application or otherwise, the [3][State] Government is satisfied that the variation required is not substantial, the [3][State] Government shall publish a draft of such variation in the prescribed manner.

(*3*) The draft variation published under sub-section (*2*) shall state every amendment proposed to be made in the scheme, and if any such amendment relates to a matter specified in any of the clauses (*a*) to (*g*) of section 3, the draft variation shall also contain such other particulars as may be prescribed.

(*4*) The draft variation shall be open to the inspection of the public at the office of the local authority during office hours.

(*5*) Within one month of the date of publication of the draft variation, any person affected thereby may communicate in writing any objection to such variation to the [3][State] Government through the Collector and Commissioner.

(*6*) After receiving the objections under sub-section(*5*), the [3][State] Government may after consulting the local authority and after making such enquiry as it may think fit, by notification in the *Official Gazette*—

(*a*) appoint an Arbitrator and thereupon the provisions contained in Chapter IV shall, so far as may be, apply to such draft variation, as if it were a draft scheme sanctioned by the [3][State] Government, or

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[1] Section 45A was inserted by Bom. 16 of 1920, s. 2.

[2] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council,

[3] The word " State " was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[4] The words " *Official Gazette* " were substituted for the words " *Bombay Government Gazette* " by the Adaptation of Indian Laws Order in Council.

[5] This section was inserted by Bom. 21 of 1938, s. 20.

(*b*) make the variation with or without modifications, or

(*c*) refuse to make the variation.

(*7*) From the date of the notification making the variation, the variation shall take effect as if it were incorporated in the scheme.]

Power to vary or revoke a town-planning scheme.

46. (*1*) [1][Notwithstanding anything contained in section 45B] a town-planning scheme may at any time be varied or revoked by a subsequent scheme prepared, published and sanctioned in accordance with this Act.

(*2*) The [2][[3][State] Government], on the application of the local authority or of any person appearing to [4][it] to be interested, may at any time, by notification in the [5][*Official Gazette*], revoke a town-planning scheme if [4][it] thinks that under the special circumstances of the case the scheme should be so revoked.

Compensation when final scheme is varied or revoked.

47. If at any time after the day on which the final scheme has come into force such scheme is varied or revoked, any person who has incurred expenditure for the purpose of complying with such scheme shall be entitled to receive compensation from the local authority, in so far as any such expenditure is rendered abortive by reason of the variation or revocation of such scheme.

Apportionment of costs of scheme withdrawn, not sanctioned or revoked.

[6][**47A.** In the event of a town-planning scheme being withdrawn or sanction to a draft scheme or a final scheme being refused by the [3][State] Government or a final scheme being revoked, the [3][State] Government may direct that the costs of the scheme shall be borne by the local authority or be paid to the local authority by the owners concerned, in such proportion as the [3][State] Government may in each case determine.]

Delegation of certain powers of local authority and Joint Town Planning Board.

[7][**47B.** (*1*) A local authority may by order in writing direct that all or any of the powers conferred on it by sections 15, 42 and 43 shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised by the Chief Officer or any such officer of the local authority as may be specified in the direction.

(*2*) A Joint Town Planning Board may, by order in writing, direct that all or any of the powers conferred on it by sections 15, 42 and 43 shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised by such officer of any local authority as the Joint Town Planning Board may specify in the direction.]

Compensation for land vested in local authority under section 44C and restoration of such land in certain cases.

[7][**47C.** (*1*) If the local authority has not executed any works on the land for which the land was vested in the local authority under section 44C within the period fixed under sub-section (*2*) of the said section, the arbitrator shall make or tender to the owner or the person interested in the land, such compensation for the damage, if any, done to the land as he may think reasonable and shall restore the land to the owner or person interested therein.]

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[1] These words, figures and letter were inserted by Bom. 21 of 1938, s. 21.

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[3] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[4] The word "it" was substituted for the words "him" and "he" by the Adaptation of Indian Laws Order in Council.

[5] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[6] This section was inserted by Bom. 21 of 1938, s. 22.

[7] This section was inserted by Bom. 19 of 1951, s. 4.

Provincial Government may itself or through any person exercise power or perform duty conferred or imposed on a local authority.

48. If in the opinion of the [1][Provincial Government] any local authority is not competent to exercise or perform, or neglects or fails to exercise or perform, any power conferred or duty imposed upon it under any of the provisions of this Act, the [1][Provincial Government], or any person or persons appointed in this behalf by the [1][Provincial Government], may exercise such power or perform such duty.

Bar of legal proceedings.

49. No suit or other legal proceedings shall be maintained in respect of the exercise of any discretion conferred by this Act or against any public servant or person duly appointed or authorised under this Act in respect of anything in good faith done or purporting to be done under the provisions thereof or the rules made thereunder.

Registration of document, plan or map in connection with a final scheme is not required.

50. (*1*) Nothing in the Indian Registration Act, 1908, shall be deemed to require the registration of any document, plan or map prepared, made or sanctioned in connection with a final scheme which has come into force and which has not been revoked.

XVI of 1908.

(*2*) All such documents, plans and maps shall, for the purposes of sections 48 and 49 of the Indian Registration Act, 1908, be deemed to have been and to be registered in accordance with the provisions of that Act:

XVI of 1908.

Provided that documents, plans and maps relating to the sanctioned scheme shall be accessible to the public in the manner prescribed.

Land needed for purpose of town-planning scheme may be compulsorily acquired.

51. Land needed for the purpose of a town-planning scheme shall be deemed to be land needed for a public purpose, within the meaning of the Land Acquisition Act, 1894.

I of 1894.

Power of Provincial Government to acquire lands included in a town planning scheme.

[2][**51A.** (*1*) If at any time the Provincial Government is of opinion that any land included in a town planning scheme is needed for a public purpose other than that for which it is included in the scheme, it may make a declaration to that effect in the *Official Gazette* in the manner provided in section 6 of the Land Acquisition Act, 1894. The declaration so published shall, notwithstanding anything contained in the said Act, be deemed to be a declaration duly made under the said section.

I of 1894.

(*2*) On the publication of a declaration under sub-section (*1*), the Collector shall proceed to take order for the acquisition of the land and the provisions of the Land Acquisition Act, 1894, shall so far as may be apply to the acquisition of the said land.

I of 1894.

I of 1894.

(*3*) In the proceedings under the Land Acquisition Act, 1894, the local authority concerned shall be deemed to be a person interested in the land acquired and in determining the amount of compensation to be awarded to the local authority, the Collector or the Court, as the case may be, may take into consideration the value, if any, paid by the local authority for the acquisition of the said land under section 51 or otherwise, and the proportionate cost of the scheme, if any, incurred by the local authority and rendered abortive by reason of the variation of the scheme on account of such acquisition.

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] This section was inserted by Bom. 55 of 1948, s. 5.

(*4*) On the land vesting in the Crown under section 16 or 17 of the Land Acquisition Act, 1894, as the case may be, the scheme shall be deemed to have been suitably varied by reason of acquisition of the land.] I of 1894.

Special provision in case of a municipality which is superseded or dissolved.

[1][2]**51B.** Where a municipality is superseded under sub-section (*1*) of section 179 of the Bombay District Municipal Act, 1901, or dissolved or superseded under sub-section (*1*) of section 219 of the Bombay Municipal Boroughs Act, 1925 [3][or where a panchayat is superseded under sub-section (*1*) of section 102 of the Bombay Village Panchayats Act, 1933,]— Bom. III of 1901. Bom. XVIII of 1925.

(*a*) the person or persons appointed under clause (*b*) of sub-section (*3*) of the said section 179 of the Bombay District Municipal Act, 1901, or under clause (*b*) of sub-section (*2*) of the said section 219 of the Bombay Municipal Boroughs Act, 1925, [4][or under clause (*a*) of sub-section (*4*) of the said section 102 of the Bombay Village Panchayats Act, 1933,] as the case may be, shall be deemed to be a municipality [5][or Panchayat, as the case may be,] within the meaning of section 2 (*a*) of this Act, and may exercise all the powers and perform all the duties of a local authority under this Act, during the period of supersession of or dissolution of such municipality [5][or Panchayat]; Bom. VI of 1933. Bom. III of 1901. Bom. XVIII of 1925. Bom. VI of 1933.

(*b*) in the event of a person or persons appointed as aforesaid exercising the powers and performing the duties of a local authority under this Act, any property which may under the provisions of this Act vest in the local authority exercising such powers and performing such duties shall, during the period of supersession or dissolution of the municipality [5][or Panchayats as the case may be] vest in His Majesty; and such property shall, at the end of the said period, vest in such municipality [5][or Panchayat] as the Provincial Government may, by notification in the *Official Gazette*, direct.]

Rules.

52. (*1*) The [6][Provincial Government] may make rules consistent with the provisions of this Act to provide for all matters not specifically enacted therein.

(*2*) In particular and without prejudice to the generality of the foregoing power such rules shall be made to determine the following matters:—

(*a*) the procedure to be followed by the officer appointed to hold an enquiry for the purpose of deciding a disputed claim as to ownership under section 4;

(*b*) the notice to be given under section 5;

(*c*) the manner of publication of a declaration of intention to make a scheme under sub-section (*2*) of section 9;

(*d*) the manner of publication of a draft scheme under section 10;

(*e*) the further particulars to be prescribed for inclusion in the draft scheme under clause (*f*) of section 11;

[7][(*ee*) the period within which a local authority shall submit a draft scheme under sub-section (*1*), and the period within which Government may sanction it or refuse to give sanction to it under sub-section (*2*) of section 14];

(*f*) the form of the commencement certificate to be granted by a local authority under clause (*a*) of sub-section (*1*) of section 15 and the conditions, if any, to be included therein;

(*g*) the procedure to be followed by a local authority in making an enquiry under clause (*c*) of sub-section (*1*) of section 15;

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[1] This section was inserted by Bom. 4 of 1942, s. 2, read with Bom. 23 of 1947, s. 2.
[2] This section was renumbered as section 51B by Bom. 55 of 1948, s. 5.
[3] This portion was inserted by Bom. 13 of 1949, s. 2.
[4] This portion was inserted, *ibid.*
[5] These words were inserted, *ibid.*
[6] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council
[7] This clause was inserted by Bom. 21 of 1938, s. 23 (*a*) (*i*).

(*h*) the time to be allowed for making a claim to compensation under section 21 ;

(*i*) the period within which payment is to be made to the local authority under section 24 ;

(*j*) the procedure to be prescribed under section 30 and the notices to be given under sub-sections (*1*), (*2*) and (*9*) of that section ;

(*k*) the form in which the arbitrator is to draw up the final scheme under sub-section (*10*) of section 30 ;

(*l*) the way in which the [1][[2][State] Government] is to publish a notification relating to the final scheme under sub-section (*1*) of section 40 ;

(*m*) the procedure to be followed by the local authority in summarily evicting a person under section 42 ;

(*n*) the notice to be given by the local authority before it takes action under section 43 ;

[3][(*na*) the manner of preparing a preliminary scheme under section 44B ;

(*nb*) the manner of giving notice under section 44C.]

(*o*) the proportion of elected and nominated persons on a Joint Planning Board under sub-section (*2*) of section 45 ;

(*p*) the manner of election of representatives of the several local authorities under sub-section (*3*) of section 45 ;

[4][(*pp*) the manner of publication of a draft variation under sub-sections (*2*) and (*3*), and the particulars a draft variation shall contain under sub-section (*4*) of section 45B ;]

(*q*) the manner in which documents, plans and maps shall be made accessible to the public under the proviso to section 50 ;

(*r*) the procedure to be adopted for securing co-operation on the part of the local authority with the owners or persons interested in land proposed to be included in a town-planning scheme at every stage of the proceedings by means of conferences and such other means as may be expedient ;

(*s*) the procedure to be followed by an arbitrator appointed under this Act ;

(*t*) the procedure to be followed by a Tribunal of Arbitration under this Act ;

(*u*) the procedure to be followed generally in carrying out the provisions and objects of this Act ;

(*v*) the extent to which the proceedings of local authorities under this Act shall be regulated by any municipal or local law applicable to such authorities.

[5][(*2A*) A rule made under this section may provide that a contravention of any of the provisions of this Act or of the final scheme published under section 40 or of the rules which are specified in such rule shall be punishable with fine which may extend to Rs. 1,000 and, in the case of a continuing contravention with an additional fine which may extend to Rs. 10 for every day during which such contravention continues after conviction for the first such contravention.]

(*3*) The power to make rules under this Act shall be subject to the condition of previous publication.

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] These clauses were inserted by Bom. 19 of 1951, s. 5.

[4] This clause was inserted by Bom. 21 of 1938, s. 23 (*a*) (*ii*).

[5] This sub-section was inserted, *ibid*, s. 23 (*b*).

BOMBAY ACT No. III OF 1915.[1]

[THE BOMBAY DECENTRALIZATION ACT, 1915.]

[*15th June 1915.*]

Repealed in part by Bom. 7 of 1920;
" " " " " 3 of 1937.

An Act to decentralize and otherwise to facilitate the administration of certain enactments in force in the Presidency of Bombay.

WHEREAS it is expedient to decentralize and otherwise to facilitate the administration of certain enactments in force in the Presidency of Bombay;

AND WHEREAS the previous sanction of the Governor General required by section 5 of the [2]Indian Councils Act, 1892, has been obtained for the passing of this Act; It is hereby enacted as follows:—

1. This Act may be called the Bombay Decentralization Act, 1915. Short title.

2. The enactments specified in the third columns of the Schedules I and II are hereby amended to the extent and in the manner specified in the fourth columns thereof. Amendments of certain enactments.

3. Any appointment, notification, order, scheme, rule, form or bye law made or issued by an authority for the making or issuing of which a new authority is substituted by or under this Act shall, unless inconsistent with this Act, be deemed to have been made or issued by such new authority unless and until superseded by appointment, notification, scheme, rule, form or bye-law made or issued by such new authority. Saving of orders, etc., issued by previous authorities.

SCHEDULE I.

[*The amendments made by Schedule I have been incorporated in the principal Acts.*]

SCHEDULE II.

[*Rep. by Act 3 of 1937, schedule.*]

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1914, Part VII, page 1066; for Report of Select Committee, *see ibid.*, 1915, Part VII, page 97; and for Proceedings in Council, *see ibid.*, 1915, Part VII, pages 84 and 245.

[2] *See* now the Government of India Act, 1935.

THE BOMBAY CITY SURVEY ACT, 1915.

CONTENTS.

PREAMBLE.

Sections.

1. Short title and extent.
2. Interpretation clause.
3. Provincial Government may order survey and appoint Superintendent.
4. Superintendent may enter upon land.
5. Notice to be served on holders to attend.
6. After service of notices Superintendent may proceed with survey.
7. Survey map and register.
8. Superintendent may erect boundary marks.
9. Maintenance of temporary boundary marks.
10. Survey-fee may be charged.
11. All documents connected with the survey to be sent to the Collector.
12. Maintenance of survey map and register.
13. Revision of maps.
14. How notices may be served.
15. Privilege of title-deeds.
16. Amendment of section 19 of Bombay Act II of 1876.
17. Amendment of section 31 of Bombay Act II of 1876.
18. Rules.
19. Proceedings not to be affected by informality.

BOMBAY ACT No. IV OF 1915.[1]

[THE BOMBAY CITY SURVEY ACT, 1915.]

[*7th October 1915.*]

Adapted and modified by the Adaptation of Indian Laws Order in Council.

*Amended by Bom. 17 of 1945.

An Act to provide for a survey of the Town and Island of Bombay.

WHEREAS it is expedient to provide for the survey and demarcation of land in the Town and Island of Bombay; It is hereby enacted as follows:— Preamble.

1. (*1*) This Act shall be called the Bombay City Survey Act, 1915, Short title. and extent.

(*2*) It extends to [2][the City of Bombay].

2. In this Act unless there is anything repugnant in the subject or context,— Interpretation clause.

(*a*) "Survey" includes identification of boundaries and all other operations antecedent to, or connected with, survey: "Survey"

(*b*) "Superintendent" means Superintendent of Survey under this Act: "Superintendent"

(*c*) "Land" includes anything attached to the earth or permanently fastened to anything attached to the earth: "Land"

(*d*) "Holder", in relation to any land, means the occupier of such land, or where rent is paid for such land, any person in receipt of rent for such land who does not pay rent to another person: "Holder".

Explanation.—"Rent" in this clause does not include money paid for land to [3][the Crown] or to the Municipal Corporation of the City of Bombay or to the Trustees for the Improvement of the City of Bombay or to the Trustees of the Port of Bombay or to a fazendar, except when such money is paid by a person holding such land on a tenancy for a term of less than one year.

3. (*1*) The [4][Provincial Government] may, whenever [5][it] thinks fit, order that a survey shall be made of the lands situated in the Town and Island of Bombay, and for such purpose may appoint a Superintendent of Survey and one or more Assistant Superintendents of Survey. Provincial Government may order survey and appoint Superintendent.

(*2*) The Assistant Superintendents shall exercise such powers as may be delegated to them by the Superintendent.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1914, Part VII, page 1058; for Report of Select Committee, *see ibid.*, 1915, Part VII, page 105; and for Proceedings in Council, *see ibid.*, 1915, Part VII, pages 70 and 415.

[2] These words were substituted for the original by Bom. 17 of 1945, s. 9, Sch. E read with Bom. 52 of 1947, s. 2, proviso.

[3] The words "the Crown" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[4] The words "Provincial Government" were substituted for the words "Governor in Council" *ibid.*

[5] The word "it" was substituted for the word "he", *ibid.*

*This Act has been repealed and re-enacted and the amendments made by section 9 and Sch. E of the said Act, have been continued in force by Bom. 52 of 1947, s. 2.

Superintendent may enter upon land.

4. The Superintendent or any other officer employed in the survey may enter, between the hours of sunrise and sunset, upon any land within the local limits aforesaid, without being liable to any legal proceedings whatsoever on account of such entry or of anything done on such land in pursuance of this Act:

Provided that no such entry shall be made unless a notice of the intention to make such entry has been posted at least twenty-four hours previously in some conspicuous manner on the land.

Notice to be served on holders to attend.

5. Before entering on any land for the purposes of survey, the Superintendent may cause a notice in writing under his hand to be served on the holder or occupier of the land about to be surveyed and on the holders or occupiers of conterminous lands, calling upon them to attend either personally or by agent on such land before him or before such officer as may be authorized by him in that behalf, within a specified time (which shall not be less than three days after the service of such notice), for the purpose of pointing out boundaries and of affording such information as may be needed for the purposes of this Act, and intimating that in the event of their failing to attend he or such officer will proceed with the survey in their absence.

After service of notices Superintendent may proceed with survey.

6. After due service of notice under section 5, the Superintendent, or such officer as may be autorized by him, may proceed with the survey, whether the persons upon whom notices have been served are present or not.

Survey map and register.

7. (*1*) The Superintendent shall prepare a map and a register of all lands which have been surveyed under this Act.

(*2*) To every piece of land separately shown on the map and entered in the register an indicative number shall be assigned, and the name of the person appearing to be the holder thereof at the time of the survey shall be entered in the register.

(*3*) Nothing contained in such map or register shall affect the rights of any person.

Superintendent may erect boundary marks.

8. The Superintendent may at any time cause to be erected, on any land which is to be, or has been, surveyed under this Act, temporary or permanent boundary marks of such materials and in such number and manner as he may determine to be sufficient for the purpose of the survey:

Provided that no permanent boundary marks shall be erected when the boundary is defined by a permanent building, wall or fence.

Maintenance of temporary boundary marks.

9. (*1*) When any temporary boundary mark has been erected under section 8, the Superintendent may cause a notice in writing under his hand to be served on the holder of the land whereon, or adjoining which, such boundary mark is situate requiring him to maintain such boundary mark till the survey has been completed.

(*2*) Should such holder not comply with such notice, the Superintendent may repair the boundary mark and expenses shall be recoverable from such holder as an arrear of land revenue under the provisions of the Bombay City Land-revenue Act, 1876. Bom. II of 1876.

Survey-fee may be charged.

10. (*1*) The holder of any land surveyed under this Act shall be liable to the payment of a survey-fee assessed on the area and rateable value of such land;

Provided that the aggregate amount of the survey-fees assessed under this section shall not be greater than one-half of the total cost of the survey.

(*2*) The amount of the survey-fee payable under sub-section (*1*) shall be regulated by the Collector in accordance with rules made by the [1][Provincial Government] under section 18 :

Provided that—

(*a*) no survey-fee shall be payable by [2][the Crown] or by the Municipal Corporation of the City of Bombay or by the Trustees for the Improvement of the City of Bombay or by the Trustees of the Port of Bombay ;

(*b*) the holder of any land of which the area and rateable value do not exceed such limit as may be prescribed by rule made by the [1][Provincial Government] under section 18 shall be exempt from the payment of any survey-fee in respect of that land ;

(*c*) no survey-fee shall be payable in respect of buildings and lands exclusively occupied for public worship or for charitable purposes which under the City of Bombay Municipal Act, 1888, are exempt from the levy of the general tax.

Bom. III of 1888.

(*3*) Any survey-fee assessed in accordance with sub-sections (*1*) and (*2*) shall be payable within three months from the date of a notice to be served by the Collector upon the person liable therefor after the completion of the survey of the Town and Island of Bombay, and such survey-fee shall be leviable as an arrear of land revenue under the provisions of the Bombay City Land-revenue Act, 1876.

Bom. II of 1876.

(*4*) Any person who has paid the survey-fee assessed on any land under this section shall be entitled to receive free of charge a certified extract from the map and a certified extract from the register prepared under section 7, so far as they relate to such land.

All documents connected with the survey to be sent to the Collector.

11. (*1*) After the survey of any part of the town has been completed, the Superintendent shall deposit with the Collector all maps, registers and other documents connected with the survey of such part.

(*2*) Such deposit shall be notified in the [3][*Official Gazette*], and any person interested in the survey may, at any time within two months from the date of such notification, inspect such maps, registers and other documents free of charge.

(*3*) During such period the Collector may, if necessary and without prejudice to the rights of any of the parties concerned, cause the map or the register prepared under section 7 to be corrected free of charge.

Maintenance of survey map and register.

12. (*1*) The map and register prepared under section 7 shall be maintained by the Collector, who shall cause the map to be revised and the entries in the register to be corrected from time to time as may be necessary, without prejudice to the rights of any person :

Provided that no person shall for the purposes of this Act be required to give notice of the acquisition of any interest in land.

(*2*) The Collector may assess the cost of the revision of any part of the map and all contingent expenses on the land to which such part relates, and such cost shall be payable by the holder of such land, subject to the same exemption as is provided in section 10, sub-section (*2*), proviso (*a*), with reference to the payment of survey-fees and shall be leviable as an arrear of land revenue under the provisions of the Bombay City Land-revenue Act, 1876.

Bom II of 1876.

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] The words "the Crown" were substituted for the word "Government", *ibid.*

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

Revision of maps.

13. Subject to rules made in this behalf by the [1][Provincial Government] under section 18, any officer acting under the orders of the Collector of Bombay may, for the purpose of revising any map prepared under this Act, exercise any of the powers of a Superintendent under this Act.

How notices may be served.

14. Every notice required by this Act to be served on any person may be served—

(*a*) by delivering the same to such person, or when such person cannot be found, by posting the same on some conspicuous part of the house in which such person usually resides or holds his office or carries on his business, or by delivering the same to an agent or servant of such person, or to a male adult member of his family, and, in the case of a notice served under section 5 or section 9, by fixing a copy in some conspicuous manner on the land to which it relates; or

(*b*) by sending a registered cover through the post office containing such notice addressed to such person at the place where he resides.

Privilege of title-deeds.

15. No person shall for the purposes of this Act be compelled to produce his title-deeds to any land or to disclose their contents.

16-17. [*Amendments made by sections 16 and 17 have been incorporated in the Bombay City Land-revenue Act, 1876 (Bom. II of 1876.*]

Rules.

18. (*1*) The [1][Provincial Government] may make rules not inconsistent with this Act to carry out the objects and provisions thereof.

(*2*) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication.

Proceedings not to be affected by informality.

19. No proceedings under this Act shall be affected by reason of any informality, provided that the provisions of this Act be in substance and effect complied with.

[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

BOMBAY ACT No. III OF 1915.[1]

[THE BOMBAY DECENTRALIZATION ACT, 1915.]

[*15th June 1915.*]

Repealed in part by Bom. 7 of 1920;
" " " " " 3 of 1937.

An Act to decentralize and otherwise to facilitate the administration of certain enactments in force in the Presidency of Bombay.

WHEREAS it is expedient to decentralize and otherwise to facilitate the administration of certain enactments in force in the Presidency of Bombay;

AND WHEREAS the previous sanction of the Governor General required by section 5 of the [2]Indian Councils Act, 1892, has been obtained for the passing of this Act; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Bombay Decentralization Act, 1915.

Amendments of certain enactments.

2. The enactments specified in the third columns of the Schedules I and II are hereby amended to the extent and in the manner specified in the fourth columns thereof.

Saving of orders, etc., issued by previous authorities.

3. Any appointment, notification, order, scheme, rule, form or bye law made or issued by an authority for the making or issuing of which a new authority is substituted by or under this Act shall, unless inconsistent with this Act, be deemed to have been made or issued by such new authority unless and until superseded by appointment, notification, scheme, rule, form or bye-law made or issued by such new authority.

SCHEDULE I.

[*The amendments made by Schedule I have been incorporated in the principal Acts.*]

SCHEDULE II.

[*Rep. by Act 3 of 1937, schedule.*]

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1914, Part VII, page 1066: for Report of Select Committee, *see ibid.*, 1915, Part VII, page 97; and for Proceedings in Council, *see ibid.*, 1915, Part VII, pages 84 and 245.

[2] *See* now the Government of India Act, 1935.

THE BOMBAY CITY SURVEY ACT, 1915.

CONTENTS.

PREAMBLE.

Sections.

1. Short title and extent.
2. Interpretation clause.
3. Provincial Government may order survey and appoint Superintendent.
4. Superintendent may enter upon land.
5. Notice to be served on holders to attend.
6. After service of notices Superintendent may proceed with survey.
7. Survey map and register.
8. Superintendent may erect boundary marks.
9. Maintenance of temporary boundary marks.
10. Survey-fee may be charged.
11. All documents connected with the survey to be sent to the Collector.
12. Maintenance of survey map and register.
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16. Amendment of section 19 of Bombay Act II of 1876.
17. Amendment of section 31 of Bombay Act II of 1876.
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THE BOMBAY DISQUALIFICATION OF ALIENS ACT, 1918.

CONTENTS.

PREAMBLE.

Sections.

1. Short title.
2. Defin tions.
3. Disqualification of aliens.
4. Effect of subsequent disqualification.
5. Exemption.
6. Modification of Schedule.

THE SCHEDULE.

BOMBAY ACT No. VI OF 1918.[1]

[THE BOMBAY DISQUALIFICATION OF ALIENS ACT, 1918.]

[*17th September 1918*]

Repealed in part by Act 38 of 1920.
Amended by Bom. 4 of 1920.
Adapted and modified by the Adaptation of Indian Laws Order in Council.
,, ,, ,, by the Adaptation of Laws Order, 1950.

An Act to disqualify certain aliens from being members, and from voting at elections of members, of certain local authorities in the presidency of Bombay.

WHEREAS it is expedient that certain aliens should be disqualified from being members, and from voting at elections of members, of certain local authorities in the presidency of Bombay; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Bombay Disqualification of Aliens Act, 1918.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

[2][(*a*) " alien " means—

(*i*) a person who is [3][not a citizen of India], or

(*ii*) a person who, whether he is himself within the foregoing definition or not, represents an alien firm as defined in clause (*aa*) for the purpose of voting at an election of a member of any of the local authorities specified in the schedule or for the purpose or membership of any of the said authorities;

(*aa*) " alien firm " means any firm, company, association or body of individuals (whether incorporated or not), a majority of the members of which are aliens as defined in sub-clause (*i*) of clause (*a*), or the business of which is carried on under the control or mainly for the benefit of aliens as so defined;]

[4](*b*) * * * * * * *

(*c*) " member " includes a municipal councillor and a member of a body of trustees.

Disqualification of aliens.

3. Save as hereinafter otherwise provided, no alien shall be qualified to be a member of any of the local authorities specified in the schedule or to vote at any election of a member of any of the said authorities.

Effect of subsequent disqualification.

4. (*1*) If any person having become a member of any of the local authorities specified in the schedule, subsequently becomes an alien, his seat shall thereupon become vacant.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1918, Part V, page 266; and for Proceedings in Council, *see ibid*, 1918, Part V, pages 857 to 889.

[2] These clauses were substituted for original clause (*a*) by s. 2 of the Bombay Disqualification to Aliens (Amendment) Act, 1920 (Bom. 4 of 1920.

[3] These words were substituted for the words " neither a British subject nor a subject of the Indian State " by the Adaptation of Laws Order, 1950.

Clause (*b*) was omitted by Bom. 4 of 1920, s. 2.

(*2*) Section 18 of the [1]City of Bombay Municipal Act, 1888, shall be read and construed as if, after the word "aforesaid", the words "or under the Bombay Disqualification of Aliens Act, 1918", were inserted. Bom. III of 1888.

(*3*) Section 15, sub-section (*3*) of the [1]Bombay District Municipal Act, 1901, shall be read and construed as if, after the word "section" the words "or under the Bombay Disqualification of Aliens Act, 1918", were inserted. Bom. III of 1901.

Exemption.

5. The [2][[3]State] Government] [4]* * * may, by notification in the [5][*Official Gazette*], exempt any person or class of persons from the operation of this Act.

Modification of Schedule.

6. The [2][[3]State] Government] may, by notification in the [5][*Official Gazette*], direct that the name of any of the local authorities specified in the Schedule shall omitted therefrom, or that the name of any other local authority shall be entered therein, and such direction shall have effect accordingly.

THE SCHEDULE.

Local Authority.	Enactment under which the local authority is constituted.
The trustees of the port of Bombay ..	The Bombay Port Trust Act, 1879 (Bom. VI of 1879).
All local boards	[6]The Bombay Local Boards Act, 1884 (Bom. I of 1884).
[7]* * *	* * *
The Municipal Corporation of the City of Bombay.	The City of Bombay Municipal Act, 1888 (Bom. III of 1888).
[8]* * *	* * *
The trustees for the improvement of the City of Bombay.	[9]The City of Bombay Improvement Act, 1898 (Bom. IV of 1898).
All municipalities in municipal districts outside the City of Bombay.	The Bombay District Municipal Act, 1901 (Bom. III of 1901).

[1] *Supra.*

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[4] The words "with the approval of the Governor-General in Council" were repealed by s. 2 and Schedule I of the Devolution Act, 1920 (38 of 1920).

[5] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[6] *See* now Bom. 6 of 1923.

[7] The entry relating to the trustees of the port of Karachi was omitted by the Adaptation of Laws Order, 1950.

[8] The entry relating to the trustees of the port of Aden was omitted by the Adaptation of Indian Laws Order in Council.

[9] The City of Bombay Improvement Act, 1898 (Bom. 4 of 1898), has been repealed by Bom. 16 of 1925 which in turn is repealed by Bom. 13 of 1933.

THE BOMBAY PUBLIC CONVEYANCES ACT, 1920.

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PREAMBLE.

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2. Definitions.

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3. Public conveyances to be licensed.
4. Licences for public conveyances.
5. Grounds on which licence may be refused or cancelled.
6. Number, etc., to be inscribed on conveyance.
7. Fees for public conveyance licences.

Licensing of horses.

8. Licensing of horses.
9. Branding of horses.
10. Grounds on which licence for horse may be refused or cancelled and examination by a veterinary practitioner.

Licensing of Drivers.

11. Drivers to be licensed.
12. Grounds on which driver's licence may be refused or cancelled.
13. Drivers' badges.
14. Fees for drivers' licences.

Provisions relating to licensees.

15. Licences when suspended or cancelled to be returned.
16. Change of address of licensee to be reported.

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17. Public conveyance or horse to be produced for inspection when required.

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Sections.

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21. Book of fares to be issued.

Offences and punishments.

22. Keeping public conveyance without licence.

23. Failure to cause public conveyance to ply when so required by the police.

24. Licensee of public conveyance permitting unlicensed driver to use the same or permitting the same to be drawn by unlicensed horse.

25. Failure to produce public conveyance or horse for inspection.

26. Offences by drivers of public conveyances.

27. Failure to return licence or to notify address.

28. Injury to public conveyance.

29. Compensation payable by driver causing damage.

Procedure.

30. Arrest by police.

31. Procedure in case of dispute.

32. Licensee may be required to produce driver : penalty.

33. Refusal to pay fare.

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34. Disposal of property : penalty.

35. Rules.

36. Extension of Act.

37. Power to apply or adapt certain provisions to vehicles not used for the purpose of plying for hire.

38. Powers may be exercised from time to time.

39. Repeal of certain enactments.

THE SCHEDULE.

BOMBAY ACT No. VII OF 1920.[1]

[THE BOMBAY PUBLIC CONVEYANCES ACT, 1920.]

[*17th June 1920*]

Amended by Bom. 2 of 1924 ;
" " " 11 of 1924 ;
" " " 7 of 1928.
Adapted and modified by the Adaptation of Indian Laws Order in Council.
Amended by Bom. 18 of 1943 ;*
" " " 17 of 1945 ;§
" " " 18 of 1948 ;
" " " 37 of 1949.
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 28 of 1950 ;
" " " 9 of 1951.

An Act to amend the Law relating to the regulation of Public conveyances.

[2][WHEREAS it is expedient to amend the law relating to the regulation of public conveyances ; AND WHEREAS it is expedient to provide for prohibiting the plying of certain classes of vehicles as public conveyances ; It is hereby enacted as follows :—]

Short title and extent.

1. (*1*) This Act may be called the Bombay Public Conveyances Act, 1920.

(*2*) This section and sections 36, 38 and 39 extend to the whole of the Presidency of Bombay. The rest of the Act extends, subject to the provisions of section 36, only to the [3][Greater Bombay].

Definitions.

2. In this Act unless there is anything repugnant in the subject or context—

(*a*) " Commissioner of Police " means the Commissioner of Police for the [3][Greater Bombay] and includes any person authorised by him to exercise or perform any power or duty imposed or conferred on the Commissioner of Police by this Act ;

[4][(*b*) " public conveyance " means any wheeled vehicle, drawn or propelled on roads and used for the purposes of plying for hire for the conveyance of persons or goods but does not include a motor vehicle as defined in the Motor Vehicles Act, 1939, or a vehicle running upon fixed rails ;]

IV of 1939.

[5][(*c*) " licensing year " means the year commencing on such date as the Commissioner of Police shall, subject to the condition of previous publication, fix for the purpose of licences granted under this Act ;]

(*d*) " driver " includes a conductor, attendant or other person in charge of a public conveyance ;

(*e*) " licensee " means the holder of a licence granted under this Act for a public conveyance or a horse or a driver of a public conveyance.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1919, Part V, page 945 ; for Report of Select Committee, *see ibid.*, 1920, Part V, page 51 ; and for Proceedings in Council, *see ibid.*, 1919, Part V, page 1092 ; *ibid*, 1920, page 265.

[2] This preamble was substituted for the original by Bom. 18 of 1948, s. 3.

[3] These words were substituted for the words " City of Bombay " by Bom. 17 of 1945, s. 9, and Sch. E, read with Bom. 52 of 1947, s. 2, proviso.

[4] This clause was substituted for the original by Bom. 18 of 1943, s. 2, read with Bom. 18 of 1948 s. 2.

[5] Clause (*c*) was substituted for the original by Bom. 7 of 1928, s. 2.

* This Act was repealed and section 2 thereof was re-enacted by Bom. 18 of 1948, s. 2.

§ This Act has been re-enacted and the amendments made by section 9 and Sch. E of the said Act have been continued in force by Bom. 52 of 1947, s. 2.

Licensing of Public Conveyances.

Public conveyances to be licensed.

3. (*1*) No person shall keep or let for hire any public conveyance without a licence granted by the Commissioner of Police in this behalf.

(*2*) On every public conveyance—

(*a*) the number of the conveyance as entered in the licence granted for the same, and

(*b*) where the conveyance is licensed to carry passengers, the number of passengers which it is licensed to carry,

shall be clearly inscribed in such manner as the Commissioner of Police may direct.

Licences for public conveyances.

4. (*1*) Such licences shall remain in force for the licensing year, unless sooner determined under the provisions of this Act, and shall be renewable.

(*2*) Such licences shall contain the following and such other particulars and conditions as the Commissioner of Police may prescribe :—

(*a*) the full name and address of the licensee ;

(*b*) the date on which the licence was granted and the date on which it will expire by efflux of time ;

(*c*) the local area for which the licence is granted ;

(*d*) the number and class of the conveyance ;

(*e*) the number of horses or other animals (if any) by which it is to be drawn ;

(*f*) the number of passengers (if any) which it may carry.

(*3*) Such licences shall not be transferred by the licensee to any other person without the sanction of the Commissi ner of Police and if transferred without such sanction shall thereupon become void. Such sanction when granted shall be endorsed on the licence.

Grounds on which licence may be refused or cancelled.

5. [1][(*1A*) The Commissioner of Police may refuse to grant licences for any class of vehicles if, in his opinion, it is undesirable that such vehicles should be used as public conveyances. The Commissioner of Police may, on the same ground, refuse to renew, and may, at any time, cancel the licences already granted for such vehicles. On such cancellation the licensee shall be granted out of the fees paid by him for the licence a refund of a sum equal to the amount of fees payable for the unexpired portion of the licence calculated in proportion to the amount paid for the full period of the licence.]

(*1*) The Commissioner of Police may refuse to grant a licence for a public conveyance if in his opinion the conveyance is insufficiently found or is otherwise unfit for the purpose for which it is intended.

(*2*) The Commissioner of Police may refuse to renew, and may at any time suspend or cancel, a licence for a public conveyance on either of the foregoing grounds or if in his opinion—

(*i*) the licensee has committed a breach of any provision of this Act or of a rule made under this Act or of a condition of the licence, or

(*ii*) a conveyance licensed for carrying goods has been used for carrying passengers.

(*3*) When refusing to renew, or suspending or cancelling, a licence for a public conveyance, the Commissioner of Police may erase the inscription made thereon in accordance with this Act.

[1] This sub-section was inserted by Bom. 18 of 1948, s. 4.

Number, etc., to be inscribed on conveyance.

6. (*1*) When granting or renewing a licence for a public conveyance, and at other times when necessary, the Commissioner of Police shall cause the particulars required by clauses (*a*) and (*b*) of sub-section (*2*) of section 3 to be painted or otherwise clearly inscribed upon the conveyance.

(*2*) No fee shall be charged for any inscription made under the foregoing sub-section when it is made at the time when the licence is granted or at the annual renewal of the licence, but when such inscription is made at any other time [1][the licensee shall pay such sum towards the cost of such inscription as the Commissioner of Police shall by rules direct].

Fees for public conveyance licences.

7. (*1*) For the grant of a licence for a public conveyance a fee shall be charged at such rate as the Commissioner of Police shall prescribe.

(*2*) For the renewal of such licence a fee at one-half of the rate chargeable under the foregoing sub-section shall be charged.

Licensing of horses.

Licensing of horses.

8. (*1*) No horse shall be used for drawing a public conveyance except under a licence granted by the Commissioner of Police in respect of such horse.

(*2*) Such licences shall remain in force for the licensing year unless sooner determined under this Act, and shall be renewable.

(*3*) Such licences shall contain the following and such other particulars and conditions as the Commissioner of Police may prescribe:

(*a*) the full name and address of the licensee;

(*b*) the date on which the licence was granted and the date on which it will expire by efflux of time;

(*c*) the local area for which the licence is granted;

(*d*) a description of the horse for which the licence is granted and the marks of identification of the same;

(*e*) the class of conveyance to draw which the horse may be used.

(*4*) Such licences may not be transferred by the licensee to any person without the sanction of the Commissioner of Police and if transferred without such sanction shall thereupon become void. Such sanction shall be endorsed on the licence.

[2][(*5*) Such licences shall if so directed by the Commissioner of Police be carried in the public conveyance for drawing which the horse is being used and shall be produced for inspection whenever required by any police officer.]

Branding of horses.

9. When granting a licence for a horse the Commissioner of Police [3][may, if he thinks it necessary] brand such horse on the hoof in such manner that it may be easily identified.

Grounds on which licence for horse may be refused or cancelled and examination by a veterinary practitioner.

10. (*1*) The Commissioner of Police may refuse to grant or renew, and may at any time suspend, a licence for a horse if in his opinion such horse is in any way unfit for use in a public conveyance.

(*2*) In case of such refusal or suspension the owner of the horse or licensee, as the case may be, may require that such horse be examined by a veterinary practitioner of the Government or of a local authority, and, if in the opinion of such practitioner the horse is fit for use in a public conveyance, the Commissioner of Police shall grant or renew the licence or cancel the order of suspension.

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[1] These words were substituted for the words " a fee at one-half of the rate chargeable for the grant of a licence for a public conveyance under section 7, sub-section (*1*), shall be charged " by Bom. 7 of 1928, s. 3.

[2] This sub-section (*5*) was added, *ibid.*, s. 4.

[3] These words were substituted for the word " shall ", *ibid.*, s. 5.

Licensing of Drivers.

Drivers to be licensed.

11. (*1*) No person shall act as driver of a public conveyance without a licence granted by the Commissioner of Police in this behalf.

(*2*) Such licences shall remain in force for the licensing year unless sooner determined under this Act, and shall be renewable.

(*3*) Such licences shall contain the following and such other particulars and conditions as the Commissioner of Police may prescribe :

(*a*) the full name and address of the licensee ;

(*b*) the date on which the licence was granted and the date on which it will expire by efflux of time ;

(*c*) the local area for which the licence is granted ;

(*d*) the class of public conveyance which the licensee is licensed to drive.

Grounds on which driver's licence may be refused or cancelled.

12. (*1*) The Commissioner of Police may refuse to grant a licence to a driver if in his opinion such driver [1][is not competent and careful or] is unfit on account of youth, infirmity, bad character or any other reason to pursue the occupation of driver of a public conveyance.

(*2*) The Commissioner of Police may refuse to renew, and may at any time suspend or cancel, a driver's licence on the foregoing grounds or if the holder has committed a breach of any provision of this Act or of a rule made under this Act or of a condition of the licence.

Drivers' badges.

13. (*1*) When granting a licence to a driver the Commissioner of Police shall provide him with a metal badge bearing the number of the licence.

(*2*) Every driver who has received such badge shall wear the same on a conspicuous part of his dress at all times when pursuing his occupation as driver.

(*3*) No driver who has received such badge shall permit any other person to wear the same : provided that any person, other than the driver to whom a badge has been given by the Commissioner of Police, who shall wear such badge shall be presumed, until the contrary is proved, to wear it with such driver's permission.

Fees for drivers' licences.

14. (*1*) For the grant of a licence to a driver a fee shall be charged at such rate as the Commissioner of Police shall prescribe.

(*2*) For the renewal of such licence a fee at one-half of the rate chargeable under the foregoing sub-section shall be charged.

Provisions relating to licensees.

Licences when suspended or cancelled to be returned.

15. Every licence which has been suspended or cancelled shall be returned by the licensee to the Commissioner of Police within twenty-four hours after the suspension or cancellation thereof.

Change of address of licensee to be reported.

16. Whenever a licensee shall change his residence he shall within one week thereafter give notice thereof in writing signed by himself to the Commissioner of Police.

[1] These words were inserted by Bom. 2 of 1924, s. 2.

[1][16A. Whenever the licensee of a public conveyance shall be absent from the [2][Greater Bombay] for a period exceeding fifteen days he shall, if the public conveyance is used for the purpose of plying for hire, give, previous to his departure, notice thereof in writing signed by himself to the Commissioner of Police. Such notice shall state the name of the person left in charge of the public conveyance. Such person shall, until the return of the licensee, perform all the duties of a licensee of a public conveyance and be liable to all the penalties to which such licensee is liable under this Act.] Licensee to report name of person left in charge of conveyance during his absence.

17. Every licensee of a public conveyance or horse shall produce such conveyance or horse for inspection whenever the Commissioner of Police shall require him to do so. Public conveyance or horse to be produced for inspection when required.

Fares and stands.

18. The Commissioner of Police shall, subject to the conditions of previous publication and the previous sanction of the [3][[4][State] Government], fix the legal rates of fares for public conveyances. Rates of fares.

19. The Commissioner of Police shall appoint stands or places, at which alone public conveyances may stand to ply for hire [5][and may, at any time, abolish any such stand or place]. Stands.

20. (*1*) Every driver of a public conveyance shall have with him when pursuing his occupation as driver the licence granted to him under section 11 of this Act and a clean and legible list, in English and such vernacular language or languages as the Commissioner of Police may direct, bearing the name in full of the licensee of the conveyance and showing the rates of fares fixed for the time being for the hire of the conveyance, with an abstarct of the law relating to public conveyances. Driver to have his licence as driver and list of fares.

(*2*) Every such driver shall on demand by a police officer produce for inspection such licence and list.

(*3*) Every such driver shall on demand produce such list for the information of any hirer of, or passenger travelling in, the conveyance.

21. Lists of the fares fixed for public conveyances, as for the time being in force, together with the abstract referred to in the preceding section, shall be prepared by the Commissioner of Police and sold to the public at a reasonable price. Book of fares to be issued.

Offences and punishments.

22. [6][(*1*)] Any person who shall— Keeping public conveyance without licence.

(*a*) keep or let for hire any public conveyance without a licence granted by the Commissioner of Police in this behalf and for the time being in force, or

(*b*) [7]* * * keep or let for hire any public conveyance on which the number and other particulars required by section 3 are not clearly inscribed in such manner as the Commissioner of Police directs,

shall be punishable with fine which may extend to one hundred rupees.

[8][(*2*) If any person commits an offence under clause (*a*) of sub-section (*1*) any Court trying such offence may direct that the conveyance in respect of which the

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[1] Section 16A was inserted by Bom. 7 of 1928, s. 6.
[2] These words were substituted for the original by Bom. 17 of 1945, s. 9, and Sch., E, read with Pom. 52 of 1947, s. 2, proviso.
[3] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.
[4] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[5] These words were added by Bom. 7 of 1928, s. 7
[6] Section 22 was renumbered as sub-section (*1*) by Bom. 37 of 1949, s. 2.
[7] The words "who shall" were deleted by Bom. 9 of 1951 s. 2, First Schedule.
[8] This sub-section was inserted by Bom. 37 of 1949, s. 2.

Court is satisfied that the offence has been committed shall be forfeited to [1][Government]].

Failure to cause public conveyance to ply when so required by the police.

23. Any licensee of a public conveyance who shall without sufficient reason fail to cause such conveyance to ply for hire when required to do so by a police officer and any driver of a public conveyance who shall without sufficient reason fail duly to pursue his occupation when required to do so by a police officer, shall be punishable with fine which may extend to fifty rupees.

Licensee of public conveyance permitting unlicensed driver to use the same or permitting the same to be drawn by unlicensed horse.

24. Any licensee of a public conveyance who shall, when the same is used for the purpose of a public conveyance, permit any person to act as driver thereof other than a driver duly licensed under this Act, or who shall, when such conveyance is used for the purpose aforesaid, permit the same to be drawn by a horse other than a horse for which a licence is in force under this Act, shall be punishable with fine which may extend to fifty rupees.

Failure to produce public conveyance or horse for inspection.

25. Whoever, being the licensee of a public conveyance or horse, shall fail to produce such conveyance or horse for inspection when required to do so by the Commissioner of Police shall be punishable with fine which may extend to twenty rupees.

Offences by drivers of public conveyances.

26. (*1*) Whoever shall act as driver of a public conveyance without a driver's licence granted by the Commissioner of Police in this behalf and for the time being in force, or [2][without a badge, if he has received a badge from the Commissioner of Police, or, when acting as such driver, shall fail to wear a badge so received] on a conspicuous part of his dress ; and

(*2*) Whoever, being the driver of a public conveyance, shall—

(*a*) permit any other person to use his licence or badge ;

(*b*) permit more passengers to be carried in a public conveyance than it is licensed to carry ;

(*c*) conceal or permit to be concealed from public view the inscription made on a public conveyance in accordance with this Act, or prevent or attempt to prevent any person taking note of such inscription ;

(*d*) permit any person to be carried, without the express consent of the hirer, in a public conveyance the whole of which has been hired by any person ;

(*e*) fail to produce, on demand by a police officer, the licence, [3][if any], granted to him under [4][section 8 or section 11] or a list of the legal rates of fares as required by this Act ;

(*f*) fail to produce, on demand by a hirer of, or passenger travelling in, a public conveyance a list of the legal rates of fares for such conveyance as required by this Act ;

(*g*) refuse or neglect to give way, if he conveniently can, to any private conveyance, or obstruct or hinder the driver of any other public conveyance in taking up or setting down any person into or from such other public conveyance ;

(*h*) be intoxicated at any time while pursuing his occupation as driver ;

(*i*) make use of insulting or abusive language or gesture ;

(*j*) refuse to obey the reasonable orders of any person hiring a public conveyance of which he is in charge ;

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[1] This word was substituted for the words " His Majesty " by the Adaptation of Laws Order, 1950.

[2] These words were substituted for the words " without a badge granted to him by the Commissioner of Police or, when acting as such driver, shall fail to wear such badge " by Bom. 7 of 1928, s. 8 (*a*).

[3] The words " if any " were inserted, *ibid*, s. 8 (*b*).

[4] The words and figures " section 8 or section 11 " were substituted for the word and figures " section 11 ", *ibid.*

(*k*) when acting as driver, permit the inside of a public conveyance of which he is in charge to be dirty; or

(*l*) when in charge of a public conveyance other than a cart used for conveyance of goods,—

(*i*) demand prepayment of his fare, or

(*ii*) refuse without reasonable cause to carry any person desiring to hire the conveyance, or

(*iii*) refuse or delay to proceed with reasonable expedition, or

(*iv*) demand for the hire of the conveyance more than the legal fare, or

(*v*) stand to ply for hire at any place other than a stand or place appointed under this Act or loiter for the purpose of being hired in or upon any public street, road or place,

shall be punishable with fine which may extend to fifty rupees.

Failure to return licence or to notify address.

27. Any licensee—

(*a*) who shall fail to return a licence which has been suspended or cancelled to the Commissioner of Police within twenty-four hours after the suspension or cancellation thereof, or

(*b*) who, after changing his residence, shall fail to give notice thereof in writing signed by himself to the Commissioner of Police within one week after such change has taken place, or

[1][(*bb*) who, before leaving the [2][Greater Bombay] for a period exceeding fifteen days shall fail to give notice thereof in writing signed by himself to the Commissioner of Police, or]

(*c*) who shall contravene any condition of his licence,

shall be punishable with fine which may extend to twenty rupees.

Injury to public conveyance.

28. Any person using a public conveyance who shall wilfully or negligently injure the same shall be punishable with fine which may extend to twenty rupees, and shall also pay the owner of such conveyance such compensation as the Magistrate may direct, and such compensation shall be leviable as a fine.

Compensation payable by driver causing damage.

29. The driver of any public conveyance who shall by negligence or misconduct, cause any hurt or damage shall, in addition to any punishment to which he may be liable by law, pay the complainant such reasonable compensation as the Magistrate may direct, and such compensation shall be leviable as a fine.

Procedure.

Arrest by police.

30. Any police officer may arrest without warrant any person who has committed any offence under this Act, and may seize and detain any conveyance or horse in relation to which such offence has been committed.

Procedure in case of dispute.

31. (*1*) In case of any dispute between the hirer and driver of a public conveyance, either party may require the other to proceed forthwith to the nearest Magistrate's Court, where the dispute shall be determined in a summary manner by the Magistrate then sitting.

(*2*) If no Magistrate is then sitting, either party may require the other to proceed to the [3][officer in charge of the nearest police station] who shall, if necessary, arrange for the hearing of the case at the next sitting of the Court.

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[1] Clause (*bb*) was inserted by Bom. 7 of 1928, s. 9.

[2] These words were substituted for the original by Bom. 17 of 1945, s. 9 and Schedule E, read with Bom. 52 of 1947, s. 2, proviso.

[3] These words were substituted for the words "nearest police officer of rank not below that of inspector" by Bom. 7 of 1928, s. 10.

(*3*) On failure of either party to appear before the Magistrate in pursuance of a requisition under sub-section (*1*) or sub-section (*2*), or to attend the Court at any subsequent sitting to which the case may be adjourned, the Magistrate may decide the case *ex parte* and his decision shall be binding on both parties.

(*4*) Provided that, if the hirer is about to leave the [1][Greater Bombay.] a police officer to whom reference has been made under sub-section (*2*) may, after hearing both parties, require the hirer to deposit such sum, if any, as appears to be due by him, and, if any compensation appears to be due under section 28, an additional sum of ten rupees, and the hirer shall not be required to attend the Magistrate's Court. The police officer shall report the dispute to the Magistrate and the Magistrate may award the driver such sum, if any, not being in excess of the amount deposited by the hirer, as he considers just, and if any offence appears to have been committed, shall inquire into the same according to law, In either case where any surplus remains of the deposit made by the hirer, the Magistrate shall give notice hereof to the hirer and return it to him on demand.

(*5*) Where the Magistrate is satisfied that one party had no reasonable ground for requiring the other party to proceed to his Court or to the nearest police officer, he may direct the former party to pay to the latter such compensation not exceeding fifty rupees as he thinks fit, and such compensation shall be leviable as a fine.

Licensee may be required to produce driver;

32. (*1*) When a complaint is made before a Magistrate against a driver of a public conveyance under this Act, the Magistrate may, if the driver fails to appear, summon the licensee of such conveyance to appear and produce the driver.

penalty.

(*2*) If the licensee after being duly summoned fails without reasonable excuse to appear or to produce the driver he shall be punishable with fine not exceeding fifty rupees.

Refusal to pay fare.

33. If any person who has hired a public conveyance refuses to pay the legal fare thereof, the Magistrate may order payment of such fare and also of reasonable compensation for loss of time; such fare and compensation shall be leviable as a fine.

Miscellaneous

Disposal of property; penalty.

34. (*1*) All property left in any public conveyance shall be forthwith deposited by the licensee or driver of such conveyance at the nearest police station.

(*2*) The Commissioner of Police shall cause such property to be returned to such person as shall prove to his satisfaction that he is entitled to the same, on payment by such person of all expenses reasonably incurred and of such compensation to the driver of the public conveyance as the Commissioner of Police may consider just.

(*3*) Any licensee or driver failing to deposit any property as required by sub-sub-section (*1*) shall be punishable with fine which may extend to fifty rupees.

Rules.

35. [2](*1*) The Commissioner of Police, subject to the condition of previous publication, may make rules not inconsistant with this Act.—

(*a*) fixing the sum to be paid towards the cost of an inscription under sub-section (*2*) of section 6;

(*b*) generally for the regulation of public conveyances.

[1] These words were substituted for the original by Bom. 17 of 1945, s. 9 and Schedule E, read with Bom. 52 of 1947, s. 5, proviso.

[2] Sub-section (*1*) was substituted for the original by Bom. 7 of 1928, s. 11 (*a*).

(*2*) Such rules shall be published in the [1][*Official Gazette*].

[2][(*3*) Such rules may provide that a contravention thereof shall be punishable with fine which may extend to thirty rupees.]

Extension of Act.

36. (*1*) The [3][[4][State] Government] [5]* * * * may by notification in the [1][*Official Gazette*] extend this Act or any specified provisions thereof to any area within [6][its [5]* *] jurisdiction from a date to be stated in such notification.

(*2*) Where this Act or any portion thereof is extended to any such area, the [3][[4][State] Government] [7]* * * * *

(*a*) shall by notification appoint some person to perform the functions assigned by this Act to the Commissioner of Police, and

(*b*) may by notification direct that any particular Magistrates or classes of Magistrates shall exercise jurisdiction under this Act, and

[8][(*c*) may by notification direct that any class of vehicles shall be exempt from all or any of the provisions of this Act.]

(*3*) A notification under this section extending this Act or any portion thereof to any area shall be published at least thirty days before the date fixed for its coming into effect.

[9][(*3A*) When this Act or any specified provisions thereof are extended to any area by a notification under this section the expression [10][Greater Bombay] occurring in the foregoing provisions of this Act shall be construed as meaning the area to which this Act or any specified provisions thereof are extended by such notification.]

(*4*) When this Act or any portion thereof is extended to any area, the powers of fixing fees and of appointing [11][and abolishing] stands and of making rules shall be exercised subject to the approval of the [3][[4][State] Government] [7]* *

[12](*5*) * * * * * * *

Power to apply or adapt certain provisions to vehicles not used for the purpose of plying for hire.

[13]**37.** The [14][[4][State] Government], or, in any area to which this Act or any specified provisions thereof have been extended under section 36 the [3][[4][State] Government], [7]* * * * may, by notification in the [1][*Official Gazette*], apply or adapt all or any of the provisions of this Act, except those which relate to plying for hire, or any part of any such provision, to vehicles or to any class of vehicles which are kept, or ordinarily let, for hire, but which are not used for the purpose of plying for hire.

Explanation.—A vehicle shall not be deemed to be kept for hire if it is let for hire only occasionally by private agreement.

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[1] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[2] Sub-section (3) was inserted by Bom. 7 of 1928, s. 11 (*b*).

[3] The words "Provincial Government" were substituted for the words "Commissioner in Sind" by the Adaptation of Indian Laws Order in Council.

[4] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[5] The words "or the Commissioner of a division" and "or his" were deleted by Bom. 28 of 1950, Sch.

[6] The words "its or his" were substituted for the word "his" by the Adaptation of Indian Laws Order in Council.

[7] The words "or the Commissioner of the division, as the case may be" were deleted by Bom. 28 of 1950, Sch.

[8] Clause (*c*) was substituted for the original clause by Bom. 7 of 1928, s. 12 (*a*).

[9] Sub-section (*3A*) was inserted, *ibid.*, s. 12 (*b*).

[10] These words were substituted for the original by Bom. 17 of 1945, s. 9 and Sch. E, read with Bom. 52 of 1947, s. 2, proviso.

[11] These words were inserted by Bom. 7 of 1928, s. 12 (*c*).

[12] Sub-section (5), which was substituted for the original sub-section (*5*) by s. 2 of Bom. 11 of 1924, was omitted, *ibid.*

[13] Section 37 was substituted for the original section by Bom. 7 of 1928, s. 13.

[14] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

38. All powers conferred by this Act may be exercised from time to time as occasion requires.

Powers may be exercised from time to time.

39. The enactments specified in the Schedule are hereby repealed to the extent stated in the fourth column thereof.

Repeal of certain enactments.

THE SCHEDULE.

(*See section 39.*)

1	2	3	4
Year.	No.	Short title.	Extent of repeal.
		Act of the Governor General in Council.	
1895	XVI	The Amending Act, 1895.	The entry in the second Schedule relating to Bombay Act No. VI of 1863.
		Acts of the Governor of Bombay in Council.	
1863	VI	An Act for the regulation of public conveyances in the town, suburbs and harbour of Bombay.	So much as has not been repealed.
1887	V	An Act to amend Bombay Act No. VI of 1863.	The whole.
1915	III	The Bombay Decentralization Act, [1]1915.	The entry in Schedule I relating to Bombay Act No. VI of 1863.

[1]See *supra*.

THE CITY OF BOMBAY PRIMARY EDUCATION ACT, 1920.

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PREAMBLE.

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BOMBAY ACT No. XV OF 1920.[1]

[THE CITY OF BOMBAY PRIMARY EDUCATION ACT, 1920.]

[*13th December 1920*]

Adapted and inodified by the Adaptation of Indian Laws Order in Council.
Amended by Bom. 8 of 1950.
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 48 of 1950.

An Act to provide for the extension of primary education in [2][Greater Bombay].

WHEREAS it is expedient to provide for the extension of primary education in [2][Greater Bombay]; It is hereby enacted as follows:

Short title, extent and construction.

1. (*1*) This Act may be called the City of Bombay Primary Education Act, 1920.

(*2*) It extends only to [2][Greater Bombay].

(*3*) It shall be construed as part of and supplementary to the City of Bombay Municipal Act, 1888, hereinafter called "the principal Act".

Bom. III of 1888.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

(*1*) to "attend" a recognized primary school means to be present for instruction at such school on such days and at such time or times on each day as may be required by the [3][Education Committee] with the approval of the prescribed educational authority;

(*2*) "child" means a child whose age is not less than six and not more than eleven years;

(*3*) "parent" includes a guardian and any person who has the actual custody of a child;

(*4*) "prescribed" means prescribed by rules made by the [4][[5][State] Government under this Act;

(*5*) "primary education" means such education as is for the time being ecognized as such by the [4][[5][State] Government].

(*6*) "recognized primary school" means a school (or a department of a school) in which intruction in primary education is given and which is for the time being recognized by the prescribed educational authority;

[6][(*7*) "Education Committee" means a committee appointed under section 50H of the principal Act.]

Issue of notification making primary education compulsory.

3. (*1*) The Corporation may with the previous sanction of the [4][[5][State] Government] declare by notification that the primary education of boys or of girls or of children of both sexes shall be compulsory in [2][Greater Bombay] or in any ward or part of a ward thereof from a date to be mentioned in the notification: provided that, where a notification has been issued under this section with reference to children of one sex only, the Corporation may with the like sanction issue a subsequent notification with reference to children of the other sex.

(*2*) A notification under this section shall be published in the [7][*Official Gazette*] and shall be posted at the municipal office and at such other places, if any, as the Corporation shall deem necessary.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1920, Part V, page 391; for Report of Select Committee, *see ibid.*, 1920, Part V, page 754 (*a*); and for Proceedings in Council, *see ibid.*, 1920, Part V, pages 645 and 968.

[2] These words were substituted for the original by Bom. 17 of 1945, s. 9, read with Bom. 8 of 1950.

[3] These words were substituted for the words "School's Committee" by Bom. 48 of 1950, s. 81.

[4] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[5] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[6] Clause (7) was substituted for the original by Bom. 48 of 1950, s. 81.

[7] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

Corporation to make provision for primary education.

4. A notification shall not be issued under section 3 unless the Corporation satisfy the [1][[2][State] Government] that they are in a position to make and will make adequate provision in municipal or other recognized schools for free and compulsory primary education.

Resolution to be passed before issue of notification.

5. A notification shall not be issued under section 3 unless the Corporation have so determined by resolution passed at a general meeting specially called in this behalf, and unless such resolution has been supported by at least two-thirds of the councillors present at the meeting and by at least one-half of the whole number of councillors.

Duty of [3][Education Committee]

6. Where a notification has been issued under section 3 for any ward or part of a ward, it shall be the duty of the [3][Education Committee], subject to the provisions of this Act and the principal Act, to enforce the provisions of this Act respecting the attendance of children at school and the employment of children.

Duty of parent to cause children to attend school

7. Where a notification under section 3 is in force in any ward or part of a ward, the parent of every child to which such notification applies shall, in the absence of a reasonable excuse as hereinafter provided, and if such parent and child ordinarily reside in such ward or part of a ward, cause such child to attend a recognized primary school therein.

Meaning of reasonable excuse.

8. A parent shall be deemed to have a reasonable excuse for failure to cause a child to attend a recognized primary school in any of the following cases :—

(*a*) where the child is prevented from attending school by sickness, infirmity or other unavoidable cause ;

(*b*) where the child is receiving, otherwise than in a recognized primary school, instruction which in the opinion of the [3][Education Committee] is efficient, or has already completed his primary education ;

(*c*) where there is no recognized primary school within one mile, measured according to the nearest road, from the residence of the child.

Issue of attendance order.

9. Where the [3][Education Committee] is satisfied that the parent of any child who is bound under the provisions of section 7 to cause such child to attend a recognized primary school, has failed to do so, the [3][Education Committee] after giving the parent an opportunity of being heard and after such enquiry as it considers necessary, may pass an order directing the parent to cause such child to attend a recognized primary school on and from a date which shall be specified in the order.

Penalty for failure to cause child to attend school.

10. (*1*) Any parent against whom an order with reference to a child has been passed under section 9 and who fails to comply with the provisions of section 7 with respect to such child on and after the date specified in such order, shall, on conviction before a magistrate, be liable to a fine not exceeding five rupees.

(*2*) No court shall take cognizance of an offence under this section except on the complaint of the [3][Education Committee].

Penalty for employing child liable for compulsory education.

11. (*1*) Whoever knowingly takes into his employment, either on his own behalf or on behalf of any other person, any child in respect of whom the provisions of section 7 apply, so as to interfere with the efficient instruction of such child, shall, on conviction before a magistrate, be liable to a fine not exceeding twenty-five rupees.

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] These words were substituted for the words "Schools' Committee" by Bom. 48 of 1950, s. 82.

(*2*) No court shall take cognizance of an offence under this section except on the complaint of the [1][Education Committee], and before making any complaint under this section against any person, the [1][Education Committee] shall, unless such person has previously been convicted under this section in respect of the same child, cause a warning to be given to such person.

[1][Education Committee] may authorize person to appear.

12. A complaint to a magistrate under section 10 or section 11 may be made on behalf of the [1][Education committee] by such person as may be authorized by the committee in this behalf.

13. [*Taxation for the purposes of this Act.*] *Repealed by Bom. 48 of 1950, s. 83.*

Remission of fees.

14. Where a notification under section 3 is in force in any ward or part of a ward, no fee shall be charged in any municipal school in respect of the primary education of any child of the sex specified in such notification whose age does not exceed eleven years.

Power to exempt particular classes or communities.

15. The [2][[3][State] Government] may by notification in the [4][*Official Gazette*] exempt any particular class or community from the operation of this Act.

Withdrawal of notification on default.

16. If in the opinion of the [2][[3][State] Government], the Corporation have made default in any of the requirements of this Act, after giving the Corporation an opportunity of furnishing an explanation the [2][[3][State] Government] may by notification in the [4][*Official Gazette*] cancel any notification which has been issued under section 3.

17. [*Fines to be credited to Corporation.*] *Omitted by the Adaptation of Indian Laws Order in Council.*

Rules.

18. (*1*) The [2][[3][State] Government] may by notification in the [4][*Official Gazette*] make rules for the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing provision, such rules may be made—

(*a*) prescribing the educational authority by whom the duties imposed by section 2, sub-sections (*1*) and (*6*), shall be performed ;

(*b*) prescribing the manner in which application may be made for sanction to issue a notification under section 3 ;

(*c*) determining generally what shall be considered to be adequate provision for free and compulsory primary education under section 4 ;

(*d*) requiring the Corporation to prepare and publish a register of children liable for compulsory primary education in the municipal district ; and

(*e*) when the [5][[3][State] Government] determine to share the cost of providing free and compulsory primary education, specifying the extent to which the cost thereof shall be borne by the [5][[3][State] Government].

19-20. [*Amendments made by sections 19 and 20 have been incorporated in Bom. III of 1888.*]

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[1] These words were substituted for the words "Schools' Committee" by Bom. 48 of 1950, s. 82.
[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.
[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[4] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", by the Adaptation of Indian Laws Order in Council.
[5] The words "Provincial Government" were substituted for the words "local Government", *ibid.*

THE BOMBAY PLEADERS ACT, 1920.

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SCHEDULE I.

SCHEDULE II.

SCHEDULE III.

BOMBAY ACT No. XVII OF 1920.[1]

[THE BOMBAY PLEADERS ACT, 1920.]

[*13th December 1920*]

Repealed in part by Act 21 of 1926;
" " " " " 22 of 1926.
Amended by Bom. 11 of 1928;
" " " 6 of 1929;
" " " 18 of 1931.
Adapted and modified by the Adaptation of Indian Laws Order in Council.
Amended by Bom. 17 of 1945.*
" " " 53 of 1949.
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 33 of 1954.

An Act to consolidate and amend the Law relating to pleaders in the Presidency of Bombay.

WHEREAS it is expedient to consolidate and amend the law relating to pleaders in the presidency of Bombay; and whereas the previous sanction of the Governor General required by section 79, sub-section (*2*), of the Government of India Act, 1915, has been obtained for the passing of this Act; It is hereby enacted as follows:— 5 and 6, Geo. 5, c. 61.

1. (*1*) This Act may be called the Bombay Pleaders Act, 1920. **Short title and extent.**

(*2*) It extends to the whole of the Presidency of Bombay [2]* * [3]* *

2. In this Act, unless there is anything repugnant in the subject or context,— **Definitions.**

(*1*) "the High Court" means the High Court of Judicature at Bombay;

(*2*) "court subordinate to the High Court" means any court, tribunal, or person whose decree, order, decision or award is, or may hereafter be, subject to the appellate or revisional jurisdiction of the High Court;

(*3*) "pleader" means a pleader admitted under this or any previous Act, and includes an attorney of the High Court appearing, pleading or acting for a client, elsewhere than in [4][the Greater Bombay], but nothing in sections 3, 4, 5, 6, 11, 12, 13, 24, 25, 27 or 30, shall apply to an attorney of the High Court;

(*4*) "district" means the local limits of the jurisdiction of a principal civil court of original jurisdiction other than the High Court;

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1920, Part V, page 420; for Report of Select Committee, *see ibid*, 1920, Part V, page 794 (*a*); and for Proceedings in Council, *see* 1920, Part V, pages 671 and 971.

[2] The words " except Sind " were omitted by the Adaptation of Laws Order, 1950.

[3] The words " and Aden " were omitted by the Adaptation of Indian Laws Order in Council.

[4] These words were substituted for the original by Bom. 17 of 1945, s. 9, Sch. E, read with Bom. 52 of 1947, s. 2 proviso.

* This Act has been repealed and re-enacted and the amendments made by section 9, Sch. E of the said Act have been continued in force by Bom. 52 of 1947, s. 2.

(*5*) "the Letters Patent" means the Amended Letters Patent of the High Court of Judicature for the presidency of Bombay, dated the 28th December 1865 subject to any amendments thereto and alterations therein made or hereinafter to be made pursuant to clause 44 thereof or section 106(*1A*) of the Government of India Act;

(*6*) "prescribed" means prescribed by rules made under this Act.

Classes of pleaders.

3. Pleaders admitted by the High Court under this Act shall be of two classes, namely, vakils of the High Court and district pleaders

Sanads.

4. (*1*) The High Court shall issue to every pleader on his admission a sanad in form A or form B in Schedule II, as the case may be, or in such other form as the High Court may prescribe.

(*2*) In the case of the sanad of a district pleader, the name of the district [1][or districts] for which the sanad is available shall be specified therein.

Extent and transfer of sanads.

5. (*1*) No district pleader shall hold a sanad in respect of more than one district at the same time:

[2][Provided that when a district for which a sanad is to be issued comprises any area which for the purposes of administration of revenue or criminal justice or both is also included in any other district the sanad may be held in respect of both such districts.]

(*2*) On the application of a district pleader holding a sanad which is available for any [3]* district the High Court may from time to time, by endorsement on such sanad, render the same available for any other district.

(*3*) A pleader holding a sanad in respect of any district may appear, plead and act for a client in any particular civil proceeding in a Court of any other district with the previous written authority of the District Judge in such other district.

Conditions of admission.

6. (*1*) Any person who is duly qualified and is of good moral character and is not in Government service shall be entitled to be admitted as a pleader.

(*2*) The number of pleaders shall not be limited.

(*3*) If a pleader after obtaining a sanad accepts Government service, he shall not be entitled to practise whilst in service, even if he be on leave.

Where vakils of High Court are entitled to practise.

7. (*1*) Subject to the provisions of any law for the time being in force and, with respect to the right of vakils of the High Court to practise in the High Court, subject to any rules for the time being in force under clause 10 of the Letters Patent, a vakil of the High Court shall be entitled to practise—

(*a*) in the High Court;

(*b*) in any court subordinate to the High Court;

[1] The words "or districts" were inserted by Bom. 6 of 1929, s. 2.
[2] This proviso was inserted, *ibid*, s. 3 (*1*).
[3] The word "one" was deleted, *ibid*, s. 3 (*2*).

Bom. IV of 1898.

(*c*) before the tribunal of appeal constituted under the [1]City of Bombay Improvement Act, 1898 ;

(*d*) in or before any other court, tribunal or person in or before which or whom vakils of the High Court are or may hereafter be entitled by law to practise ; and

(*e*) before any public officers in any of the following proceedings :—

Bom. III of 1874.

an investigation held in accordance with the first paragraph of section 73 and on appeal under section 77 of the Bombay Hereditary Offices Act ;

Bom. V of 1879.

proceedings under section 87 of the Bombay Land Revenue Code, 1879 ;

Bom. I of 1915.

proceedings before a Tribunal of Arbitration under the Bombay Town Planning Act, 1915 ;

such proceedings under any enactment in force in the Bombay Presidency as the [2][Provincial Government], by notification in the [3][*Official Gazette*] may specify.

(*2*) The provisions of sub-section (*1*) shall apply, *mutatis mutandis*, to attorneys of the High Court.

Where district pleaders are entitled to practise.

8. Subject to the provisions of any law for the time being in force, district pleader shall, within the district [4][or districts] in respect of which he holds a sanad, be entitled to practise—

(*a*) in such civil court or courts as the District Judge may from time to time assign to him ;

(*b*) in any criminal Court ;

(*c*) in or before any other court, tribunal or person in or before which or whom district pleaders are or may hereafter be entitled by law to practise ; and

(*d*) before any public officer in any of the following proceedings :—

Bom. III of 1874.

an investigation held in accordance with the first paragraph of section 73 and an appeal under section 77 of the Bombay Hereditary Offices Act ;

Bom. V of 1879.

proceedings under section 87 of the Bombay Land Revenue Code, 1879 ;

Bom. I of 1915.

proceedings before a Tribunal of Arbitration under the Bombay Town Planning Act, 1915 ;

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[1] This Act has been repealed by Bom. 16 of 1925 which also has been repealed by Bom. 13 of 1933.

[2] The words "Provincial Government" were substituted for the words "local Government" by the Adaptation of Indian Laws Order in Council.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*," *ibid.*

[4] The words "or districts" were inserted by Bom. 6 of 1929, s. 4.

such proceedings under any enactment in force in the Bombay Presidency as the [1][Provincial Government] by notification in the [2][*Official Gazette*], may specify.

Appearance in civil court by unauthorized person forbidden.

9. No person shall appear, plead or act for any party in any civil proceeding in any court unless he is a pleader as defined in this Act and is entitled and duly empowered to appear, plead and act for such party in such proceeding :

Provided that nothing in this section shall apply—

(*a*) to any party appearing, pleading or acting on his own behalf, or appearing or acting by his recognized agent as defined in rule 2, Order III of the Code of Civil Procedure, 1908, or V of 1908.

(*b*) to any advocate of the High Court.

10. [*Cases in which vakalatnama is required.*] *Repealed by Act 22 of 1926, s. 3.*

Retaining fee.

11. (*1*) A party engaging a pleader shall pay him a retaining fee of an amount not less than one rupee.

(*2*) Where a party fails so to do, the pleader shall demand such fee and shall not perform any services for such party until the fee has been paid.

(*3*) Every pleader receiving such fee [3][shall, at the time when such fee is received by him, give] a receipt in writing for the same, specifying the date of receipt.

Pleader not to act for party adverse to his client, and not to refuse to act for his client without the permission of the Court.

12. No pleader after accepting a retaining fee shall without the permission of the Court—

(*a*) appear, plead or act, or agree so to do, on behalf of any other party whose interest in the case is adverse to that of his client, or

(*b*) refuse or omit to appear, plead or act for his client.

Receipt to be given for documents.

13. Every pleader receiving a document of any kind from his client shall—

(*a*) on demand give a receipt in writing for such document at the time when he receives it, and

(*b*) subject to the provisions of section 30 return such document if his client requires the same and gives a receipt in writing therefor.

Pleaders bound to attend on day fixed for proceeding except in certain cases.

14. (*1*) A pleader shall be bound to attend in court on any day which, by notice duly given or in accordance with the practice of the court, is fixed for the hearing of a proceeding in which he is employed.

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[1] The words "Provincial Government" were substituted for the words "local Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[3] These words were substituted for the words "shall give" by Bom. 53 of 1949, s. 3, Second Schedule.

(*2*) Where a pleader employed in any such proceeding is, from indisposition or any other reasonable cause, unable to attend on such day or at the time when the proceeding is called on, he shall notify the same to the court and thereupon the proceeding shall be stayed for such time as the court may deem reasonable :

Provided that in proceedings in which a party is represented by more than one pleader and one of such pleaders is present, the court may proceed therewith.

(*3*) In any proceeding in which a pleader ceases, temporarily or permanently, to act for his client, because he has accepted Government service, or has been permitted to withdraw from the proceeding, or has been suspended or dismissed, or has died, or for any other reason, the proceeding shall be stayed for such time as the court may deem reasonable.

Pleaders not to give or take commission.

15. No pleader shall tender, give, retain or consent to retain any gratification for procuring or having procured the employment of himself or of any other pleader in any legal business.

Pleaders not to take instructions except from client or authorized agent, or accept employment through a tout.

16. No pleader shall—

(*a*) take instructions in any proceeding except from the party on whose behalf he is retained or from some person who is within the meaning of the Code of Civil Procedure, 1908, the recognized agent of such party, or from some person authorised by such party to give such instruction, or

V of 1908.

(*b*) accept any employment in any legal business through a person who has been proclaimed as a tout.

17. [*Fee may be settled by private agreement.*] *Repealed by Act 21 of 1926, s. 6.*

Computation of taxed fee.

18. (*1*) Where costs are awarded to a party in any proceeding, the amount of the pleaders' fee to be taxed in the bill of costs as recoverable by such party, if represented by a pleader, from his adversary, shall be computed in accordance with the rules in Schedule III unless such fee has been settled under the provisions of section [1][3 of the Legal Practitioners (Fees) Act, 1926] for a lesser amount in which case no more than such lesser amount shall be recoverable.

(*2*) Nothing contained in sub-section (*1*) of this section or in section 20 shall apply to fees payable to pleaders in the Court of Small Causes of Bombay.

19. [*Amount payable by client to pleader.*] *Repealed by Act 21 of 1926, s. 6.*

When fees of two pleaders may be taxed.

20. (*1*) Where a party has, before the first hearing of a proceeding, engaged more than one pleader, the fees of two pleaders may be taxed in the bill of costs in the following cases :—

(*a*) in any original suit, of which the amount or value of the subject-matter exceeds Rs. [2][10,000], in any court subordinate to the High Court ;

X of 1865. V of 1881. I of 1894.

(*b*) in any contested proceeding under the [3]Indian Succession Act, 1865, the [5]Probate and Administration Act, 1881, or the [4]Land Acquisition Act, 1894, of which the amount or value of the subject-matter exceeds [2][Rs. 10,000, in any court subordinate to the High Court ;

[1] These words and figures were substituted for the figures "17" by Bom. 11 of 1928, s. 2, First Schedule.
[2] These figures were substituted for the figures " 5,000 " by Bom. 33 of 1954, s. 2 (*1*).
[3] *See* now the Indian Succession Act, 1925.
[4] Central Acts.

(*c*) in any appeal to the High Court, from a decree deciding on the merits any suit or any contested proceeding of the kind referred to in clause (*a*) or clause (*b*);

(*d*) in any suit of which the amount or value of the subject-matter [1][is Rs. 10,000 or less] where the court certifies by order in writing that the fees of two pleaders may be taxed:

Bom. XVII of 1879.

Provided that nothing in this section shall affect suits or appeals by paupers, or suits or appeals governed by the Dekkhan Agriculturists Relief Act, 1879.

(*2*) Except in the cases specified in this section, a party employing more than one pleader shall not be entitled to recover from his adversary more than one set of pleader's fees.

Cases where there are several parties having the same interest or putting forward the same defence.

21. Where in any proceeding there are several parties having the same interests or putting forward the same defence they shall not, if awarded costs, be allowed more than one set of pleaders' fees on party and party taxation unless the Court otherwise directs.

Taxation of cost in appeals to High Court.

22. In any civil appeal or application to the High Court from the decree or order of a court, subordinate to the High Court, if costs between party and party are awarded by the High Court, such costs shall be taxed by an officer of the High Court and included in the bill of costs attached to the decree or order of that Court in the prescribed manner.

Taxation of costs in mofussil courts.

23. In any court subordinate to the High Court situate elsewhere than in [2][the Greater Bombay], the amount of the pleader's fee to be taxed in the bill of costs attached to the decree or order of that Court shall not be in excess of the amount computed in accordance with the rules in Schedule III:

Provided that nothing in this section shall apply to bills of costs framed under the provisions of the [3]Indian Companies Act, 1913.

VII of 1913.

Suspension or removal of pleader by High Court on conviction of criminal offence.

24. The High Court may suspend or remove from practice a pleader who has been convicted by any criminal court in [4]India of a criminal offence implying a defect in his character which in the opinion of the High Court renders him unfit to be pleader.

Punishment of pleader by High Court for improper conduct.

25. On the application of the Government Pleader in the High Court, or on a report from a District Court or Court of Session, or from the Chief Judge of the Court of Small Causes of Bombay, or from the Chief Presidency Magistrate for Bombay, or otherwise, the High Court may suspend or remove from practice, or may fine or reprimand, a pleader on reasonable cause.

Powers of District Court or Court of Session in respect of improper conduct of pleader.

26. Where in appears to a District Court or Court of Session or to the Chief Judge of the Court of Small Causes of Bombay, or to the Chief Presidency Magistrate for Bombay, that a pleader has been guilty of neglect of duty or of a violation of any of the provisions of this Act or of any other improper conduct, such court may hold an inquiry regarding such conduct and report the result of such inquiry to the High Court.

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[1] These words were substituted for the original by Bom. 33 of 1954, s. 2 (*2*).

[2] These words were substituted for the original by Bom. 17 of 1945, s. 9, Sch. E, read with Bom. 52 of 1947, s. 2, proviso.

[3] Central Acts.

[4] The word "British" was omitted by the Adaptation of Laws Order, 1950.

Conduct of case in High Court against pleader.

27. (*1*) Where any case under section 24, section 25 or section 26 is heard by the High Court, the Advocate General or such counsel or pleader as may appear for the Crown shall argue the case against the pleader against whom the allegation is made, and such pleader may appear in person or by counsel or pleader.

(*2*) In any such case the High Court may make such order as to costs as it thinks fit.

28. [*Legal proceedings against pleaders not affected.*] *Repealed by Act 21 of 1926, s. 6.*

Recovery of taxed fees.

29. A pleader whose bill of cost has been taxed may apply to the Court by which or by whose officer the same has been taxed, for an order against his client for the sum allowed on taxation or such sum as may remain due. The Court may make such order or may refer the pleader to a suit.

V of 1908. Any such order may be executed under order 21 of the Code of Civil Procedure, 1908, as a decree for money.

Lien for taxed fees.

30. In every matter in which costs are due to a pleader by his client which have been or are capable of being taxed the pleader shall as against his client be entitled to a lien for the amount of such costs, as taxed, upon—

(*a*) all documents come into his possession in the course of his engagement in connection with such matter, and for which he has given a receipt in accordance with the provisions of section 13 (*a*) and

(*b*) all movable property recovered or preserved by his exertions in such matter.

Rules.

31. (*1*) The High Court may make rules consistent with the provisions of this Act—

(*a*) prescribing the qualifications and mode of admission of pleaders and the fees payable for admission;

(*b*) prescribing the fees payable in respect of examinations (if any) held for the office of pleader;

(*c*) regulating, and providing for the recognition of, bar associations and for granting sanction to the rules of such associations;

(*d*) requiring that a pleader shall be a member of, and submit to the rules of, a bar association;

(*e*) requiring that a pleader shall be a member of, and subscribe to, the law library attached to the principal Court in which he practises;

(*f*) providing for the taxation of costs between party and party;

(*g*) providing for the allowance and taxation of costs between pleader and client whether in litigious or non-litigious business;

(*h*) prescribing, in lieu of the forms in Schedule II, the form of sanad to be given to pleaders and the form of vakalatnamas;

(*i*) prescribing, in lieu of or in addition to the rules in Schedule III, the manner in which the pleader's fee shall be computed, and the amount of the pleader's fee, and determining the amount or value of the subject matter in particular classes of cases or in cases generally, for the purpose of calculating the pleader's fee;

(*j*) prescribing the manner in which costs in appeals or applications to the High Court from decrees or orders of courts subordinate to the High Court shall be taxed, in cases where costs between party and party are awarded by the High Court;

(*k*) fixing the scale of costs which may be awarded in cases under sub-section (*2*) of section 27 ;

(*l*) generally, to give effect to such provisions of this Act as may require to be provided for by rules.

(*2*) Where the High Court prescribes any new forms in lieu of the forms in Schedule II, or makes any new rules in lieu of or in addition to the rules in Schedule III, such new forms or rules respectively shall on publication be deemed to be enacted in such Schedule in lieu of or in addition to the forms or rules now therein enacted.

(*3*) All rules made under this Act shall be published in the [1][*Official Gazette*] and shall thereupon have effect as if enacted in this Act.

Savings.

32. Nothing in this Act shall be deemed to limit or otherwise affect the powers conferred upon the High Court by sections 106 and 107 of the Government of India Act, 1915, or by clauses 9 and 10 of the Letters Patent or by any law for the time being in force. 5 & 6, Geo. 5, c. 61.

Pending cases.

33. Nothing in this Act regarding the appointment, appearance or remuneration of pleaders or the taxation of costs shall apply in respect of any proceedings pending in any court at the commencement of this Act, and all such proceedings, until their final disposal by the court in which they are pending, shall be governed, in respect of such matters, by the laws and rules in force immediately before the commencement of this Act.

Repeal.

34. The enactments mentioned in Schedule I are hereby repealed to the extent specified in the third column thereof.

SCHEDULE I.

(*See* section 34.)

No. and date of enactment.	Title.	Extent of repeal.
Bombay Regulation II of 1827.	A Regulation for defining the constitution of the Courts of Civil Justice and the Powers and Duties of the Judges and Officers thereof.	So much as has not already been repealed, excepting the part of section 21 which prohibits interference of the civil courts in caste questions.
Act I of 1846 ..	An Act for amending the law regarding the appointment and remuneration of Pleaders in the Courts of the East India Company.	The whole, excepting section 5.
Act XX of 1853 ...	An Act to amend the law relating to Pleaders in the Courts of the East India Company.	Section 2.

[1] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

SCHEDULE II.

FORM A.

Sanad for a Vakil of the High Court.

(Clause 10 of the Amended Letters Patent and section 4 of the Bombay Pleaders Act, 1920.)

In [1][the High Court] of Judicature, Appellate Side, Bombay.

Bombay, 19 .

To

In conformity wth the Rules made under the provisions of clause 10 of the Amended Letters Patent constituting the High Court of Judicature at Bombay and published under the date and in conformity with the provisions of the Bombay Pleaders Act, 1920, you are hereby approved, admitted and enrolled as a Vakil of the said High Court and you will not be liable to be removed or suspended from practice, except for reasonable cause.

By order of [1][the High Court] of Judicature at Bombay,

Seal of the High Court.

Deputy Registrar.

Sealer.

The day of 19 .

FORM B.

Sanad for a District Pleader.

(Section 4 of the Bombay Pleaders Act, 1920.)

In [1][the High Court] of Judicature, Appellate Side, Bombay.

Bombay, 19 .

Tc

In conformity with the provisions of the Bombay Pleaders Act, 1920, you
are hereby appointed to the office of District Pleader in the district of

[1] These words were substituted for the words "His Majesty's High Court" by the Adaptation of Laws Order, 1950.

MO-III Bk H 902—24

You will not be liable to be removed or suspended from practice except for reasonable cause.

Seal of the High Court.

By order of [1][the High Court] of Judicature at Bombay,

Deputy Registrar.

Sealer.

The day of 19

[*Form C "Vakalatnama"*.] Repealed by Act 22 of 1926, s. 3.

SCHEDULE III.

(*See* section 18.)

Rules for computing the pleader's fee.

I.—[2][Subject to the provisions of rule VI]—

(*a*) in suits which decide on the merits the real dispute between the parties.

(*b*) in appeals from decrees (including preliminary decrees) other than appeals from execution proceedings, which decide on the merits the real dispute between the parties,

(*c*) in applications or proceedings under the

[3](*i*) Indian Succession Act, 1925, excepting application or appeals falling under sub-clauses (*ii*) and (*iii*) of clause (*e*) of rule V.

[4](*ii*) Land Acquisition Act, 1894.

the amount of the pleader's fee shall be computed on the amount or value of the subject-matter in dispute in the suit, appeal, application or proceedings at the rates specified below :—

[5][If the amount or value of the subject-matter in dispute does not exceed Rs. 2,000 at 5 per cent.

If the amount or value exceeds Rs. 2,000 but does not exceed Rs. 5,000, on Rs. 2,000 as above and on the remainder at 3 per cent.]

If such amount or value exceeds Rs. 5,000 but does not exceed Rs. 10,000, on Rs. 5,000 as above and on the remainder at 2 per cent.

If such amount or value exceeds Rs. 10,000 but does not exceed Rs. 20,000, on Rs. 10,000 as above and on the remainder at 1 per cent.

If such amount or value exceeds Rs. 20,000, on Rs. 20,000 as above and on the remainder at ½ per cent.

[6][*Exception.*—[7][Subject as aforesaid] the amount of pleaders' fees in a suit, appeal, application, or proceeding between landlord and tenant shall be calculated on the amount or value of the claim for the purposes of Court fees and not on the amount or value of the claim for the purposes of jurisdiction :

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[1] These words were substituted for the words "His Majesty's High Court" by the Adaptation of Laws Order, 1950.

[2] These words and figures were inserted by H. Ct. (A.S.) Notification No. 2036, dated 30th August 1935.

[3] Sub-clause (*i*) was substituted for the original sub-clauses (*i*) and (*ii*) by Bombay H. Ct. (A.S.) Notification No. 2539, dated 23rd December 1932.

[4] Sub-clause (*iii*) was renumbered as sub-clause (*ii*), *ibid.*

[5] This portion was substituted for the original by H. Ct. (A.S.) Notification No. X 0126/42, dated 22nd June 1944.

[6] The Exception with its proviso was inserted by Bombay H. Ct. (A.S.) No. 2025, dated 28th March 1928.

[7] The words "Subject as aforesaid" were inserted by Bombay H. Ct. (A.S.) Notification No. 2036, dated 30th August 1935.

Provided that the amount may at the discretion of the Court be calculated on the amount or value of the claim for the purposes of jurisdiction when the Court is of opinion, having regard to the labour involved in the preparation of the case or to the complexity of the issues arising therein, that the higher rate of valuation is appropriate.]

II.—[1][Subject to the provisions of rule VI]—

(*a*) in appeals from orders,

(*b*) in civil applications or proceedings other than applications and proceedings necessary for the progress of a suit or appeal and other than applications proceedings or appeals falling under rules I, IV and V, and

(*c*) in all other cases not otherwise provided for,

the amount of the pleader's fee to be allowed shall be one fourth of that payable according to the rates specified in rule I.

III.—[1][Subject to the provisions of rule VI] the fee prescribed in rules I and II shall be taken to be the remuneration for the pleader's services until the final decree or order in the suit, appeal, application, reference or proceeding, is passed.

IV.—[2][Subject to the provisions of rule VI, the pleader's fees to be allowed in execution proceedings] be one-fourth of the fee calculated at the rates specified in rule I on the amount or value of the relief or money claimed in the application to execute the decree. [3][Such fee shall be chargeable on the first application and on every subsequent contested application.]

V.—[1][Subject to the provisions of rule VI]—

V of 1908. (*a*) in any reference made to the High Court under section 113 of the Code of Civil Procedure, 1908,

(*b*) in any application to the High Court under section 115 of the said Code,

(*c*) in any application to the High Court under section 25 of the Provincial Small Causes Courts Act, 1887,

(*d*) in any application for the exercise of the High Court's Extraordinary jurisdiction in civil matters,

(*e*) in all applications or appeals under

(*i*) the Guardians and Wards Act, 1890,

[4](*ii*) Part X of the Indian Succession Act, 1925,

[4](*iii*) Part VII of the Indian Succession Act, 1925,

(*iv*) the Indian Trusts Act, 1882,

(*v*) the Provincial Insolvency Act, [5][1920],

(*vi*) any other special or local Act,

a sum of Rs. 30 shall be allowed as the pleader's fee.

[6][VI.—In all suits, appeals, applications or proceedings in which a commission is issued under the provisions of section 75 of the Civil Procedure Code the pleader's fee shall consist of—

(*a*) an amount computed in accordance with whichever of rules I to V would be applicable to the suit, appeal, application or proceeding but for the issue of the commission.

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[1] The words "Subject to the provisions of rule VI" were inserted by Bombay H. Ct. (A.S.) Notification No. 2036, dated 30th August 1935.

[2] These words were substituted for the words "In execution proceedings the pleader's fee to be allowed shall", *ibid.*

[3] These words were inserted by Bombay H. Ct. (A. S.) Notification No. 2124, dated 28th April 1925.

[4] Sub-clauses (*ii*) and (*iii*) were substituted for the original sub-clauses by H. Ct. (A.S.) Notification No. 2539, dated 23rd December 1932.

[5] The figures "1920" were substituted for the figures "1907", *ibid.*

[6] Rule VI was inserted by H. Ct. (A.S) Notification No. 2036, dated 30th August 1935.

(*b*) and such fees not exceeding Rs. 20 per day for appearing before the Commissioner as the Court may in its discretion allow :

Provided

(*i*) that no fees shall be allowed for appearing before a Commissioner if the Court when issuing the commission certifies that the presence of a pleader before the Commissioner is not necessary.

(*ii*) and provided further that no fees shall be allowed for appearing before a Commissioner in the town or village which is the headquarters of the Court issuing the Commission.]

[1]VII.—In no case, whether specially provided for in this Schedule or otherwise, shall the pleader's fee payable in any civil suit, appeal, application or proceeding other than execution proceedings be less than—

(*a*) Rs. 30 in the High Court,

(*b*) Rs. 15 in a District Court,

(*c*) Rs. 15 in the Court of a Subordinate Judge subject to the provisions of clause (*d*) and the proviso below,

(*d*) Rs. 5 in the Court of a Subordinate Judge, in suits of the nature cognizable by a Court of Small Causes, or in the Court of a Jagirdar or Inamdar exercising jurisdiction under Bombay Regulation XIII of 1830 and Act XV of 1840, or in the Court of a Mamlatdar under the Mamlatdar's Courts Act, 1906 :

Provided that suits by a superior holder for the recovery of his dues in the Court of a Subordinate Judge shall be governed by clause (*d*) and not by clause (*c*), unless in the opinion of the Court the suit involves questions of a complicated nature affecting title to land :

[2][Provided further that if a Commission is issued under the provisions of section 75, Civil Procedure Code, in the suit, appeal, application or proceeding, in calculating for the purposes of this rule the pleader's fee payable in such suit, appeal, application or proceeding, the fees payable under the provisions of rule VI, clause (*b*), shall be excluded.]

[3][VIII.—A surcharge of 25 per cent. shall be allowed on the fees prescribed hereinabove :

Provided that in suits and proceedings referred to in clauses (*a*) and (*b*) of subsection (*1*) of section 20 of the Act no such surcharge shall be allowed except when only one pleader is engaged.]

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[1] Rule VI which was substituted for the original by H. Ct. (A.S.) Notification No. 311, dated 26th January 1929, was renumbered as rule VII by H. Ct. (A.S.) Notification No. 2036, dated 30th August 1935.

[2] This proviso to rule VII was inserted by H. Ct. (A.S.) Notification No. 2036, dated 30th August 1935.

[3] Rule VIII was added by H. Ct. (A.S.) Notification No. P. 412/51 (II), dated 24th April 1953, with effect from 1st June 1953.

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CORRIGENDA TO BOMBAY CODE, VOLUME I.

Page 15, in line 6, *for* " applied to " *read* " if applied to ".
Page 19, in clause *Third* of section 43, in line 6, *for* " instituting " *read* " by instituting ".
Page 49, in footnote 2, in line 1, *for* " Chapter VII " *read* " Chapter VIII ".
Page 56, in line 5 at the beginning, *insert* the figures " 14 ".
Page 177, in section 9-*thirdly*, in line 1, *for* " he " *read* " the ".
Page 279, in section 4, *for* " 1866 " *read* " 1876 ".
Page 308, in section 16, in line 2, *for* " 1888 " *read* " 1884 ".
Page 424, in section 87 (3), in line 1, *for* " issue at " *read* " at issue ".
Page 435, in section 120, in line 7, *for* " confined " *read* " confirmed ".
Page 445, in section 149, in line 3, *for* " of the arrear " *read* " of the existence of the arrear ".
Page 499, in section 60, in the last line, *for* " same purpose " *read* " said purpose ".
Page 579, in section 2, in line 7, *for* " parternal " *read* " paternal ".
Page 668, in section 39 (9), in line 4, *for* " instructions " *read* " instruction ".
Page 707, in section 90 (2), in line 2, *for* " hole " *read* " whole ".
Page 786, in footnote 9, *for* " Bom. 5 of 1938 " *read* " Bom. 8 of 1918 ".
Page 809, in section 348 (2), in the margin, *for* " Bom. IV of 1879 " *read* " Bom. VI of 1879 "
Page 823, in section 361 (1) (*a*), in line 1, *for* " firemen " *read* " fireman ".
Page 831, in section 381 (2), in line 4, *for* " municipal funds " *read* " municipal fund ".
Page 831, in footnote 1, *for* " 1228 " *read* " 1928 ".
Page 839, in section 407 (b), in line 1, *for* " from the stallages " *read* " farm the stallages ".
Page 840, in section 409, in line 4, *for* " slighter house " *read* " slaughter-house ".
Page 867, in footnote 12, *for* " Bom. 6 of 1920 " *read* " Bom. 7 of 1920 ".
Page 868, in footnote 7, *for* " 1989 " *read* " 1898 ".
Page 868, in footnote 8, *for* " Bom. 13 of 1903 " *read* " Bom. 13 of 1933 ".
Page 868, in footnote 9, *for* " (2) " *read* " (z) ".
Page 932, against entry plot No. 10 (a) and 10 (b), in column 3 in line 4, *for* " 41 " *read* " 4/ ".
Page 1004, in section 26 (2), in line 3, *for* " perison " *read* " person. "
Page 1004, in section 26 (A), in line 1, *for* " section 25 An " *read* " section 25A in ".
Page 1006, in section 33, in line 2, *for* " to be employed " *read* " not to be employed ".
Page 1007, in section 34 (1) (a), in line 1, *for* " written " *read* " written ".
Page 1009, in section 39 (e), in line 1, for " odour " *read* " ordure ".
Page 1037, in section 3 (1) (a), in line 4, *for* " months' notice " *read* " two months' notice ".
Page 1050, in section 25 (b), in line 2, *for* " may " *read* " any ".
Page 1159, in section 135, in line 1, *for* " whole " *read* " hole ".
Page 1162, in line 21, *for* " carriage for consumption " *read* " carriage or consumption ".
Page 1180, in footnote 7, in line 2, *for* " 4 (a) " *read* " (3) (a) ".
Page 1243, in section 66 (4), in line 1, *for* " drovisions " *read* " provisions ".
Page 1367, in section 24 (2), in line 6, *for* " contempated " *read* " contemplated ".
Page 1421, in Schedule III, in rule (VI) (a), in line 1, *for* " rule " *read* " rules ".

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